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**Letter from William A. Brophy to Senator Langer Regarding Native Veterans and the Serviceman's Readjustment Act of 1944,
December 17, 1945**

William A. Brophy
US Bureau of Indian Affairs

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UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
Washington 25

December 17, 1945.

Hon. William Langer,

United States Senate.

My dear Senator Langer:

I should like to call your attention to a circular that I have sent out setting forth some instructions to our superintendents and other personnel about the Indian veterans having the right to credit under the G. I. Bill of Rights. A copy of the circular is enclosed. You will notice that some of the new instructions liberalize and modernize the regulations on the giving of security by Indians.

Sincerely,

William A. Brophy

Commissioner.

Enclosure.

*Same letter
written to 5 agencies in
N. Dak.*

UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Chicago 54, Illinois

Circular No. 3610

November 29, 1945.

Subject: Loan Guaranty
Provisions of Service-
men's Readjustment Act
of 1944.

TO: Superintendents and other Indian Service Personnel:

1. General: The loan guaranty provisions under Title III of the Servicemen's Readjustment Act of 1944 (58 Stat. 291, 38 U.S.C. 694) are applicable to loans made to Indian veterans the same as to any other veterans. Indian veterans may apply to persons and firms, associations, and corporations, either State or Federal, for loans subject to guarantee under the Act. Indian veterans should be encouraged to apply to lenders in their localities which are serving other veterans.

An Indian is a citizen (8 U.S.C. 601). The fact that he is an Indian entails no personal disqualification of his right to enter into a contract.* An Indian may also own property with which he may deal freely, but it is true at the same time that certain United States Statutes place limitations on the individual Indian with respect to the alienation of property held in trust for him by the United States, or which is subject to restrictions against alienation. The individual Indian can not sell or mortgage his interest in such property, although there are means by which the Secretary of the Interior may enable him to sell such property.

The facilities of veterans' organizations should be enlisted, wherever possible, to help disseminate this information to interested parties. Indian Service employees should ascertain the lenders making loans under the Act in their respective localities. All possible assistance should be rendered Indian veterans in securing loans through the same lenders that serve other veterans, even though tribal lending agencies may be available in the particular locality.

2. Guaranty: The Veterans Administration, acting on behalf of the United States, will guarantee up to 50 per cent (not to exceed \$2,000) a loan for the purchase of land, farming equipment, livestock, or for the conduct of a business,

* It should be noted, however, that any loan agreement executed by any member of the Osage Tribe of Indians of one-half or more Indian blood not having a certificate of competency would require the approval of the Secretary of the Interior as a condition of its validity. It should be noted also that the New York Indian law provides that no action on any contract may be brought against any Indian of the Tonawanda Nation, the Seneca Nation, or Onondaga Tribe. Whatever view may be entertained as to the constitutionality of this State Statute, as a practical matter it would no doubt prevent loans to the New York Indians within its purview.

without any security other than a mortgage on the property being acquired with the proceeds of the loan. Thus, an Indian may borrow money to buy a piece of land offering as sole security a mortgage on the land being purchased. Interest for the first year on the guaranteed portion of the loan is paid by the Veterans Administration.

3. Operations on Trust Land: If the lender and the Indian veteran borrower so agree, superintendents are hereby authorized to permit Indian veterans to assign income from trust land as security for the loan partially guaranteed by the Veterans' Administration; but the Indian can not mortgage or assign trust land belonging to him or leased by him. Obviously he can not assign or otherwise transfer or mortgage tribal lands even though he may be operating the same under a lease, or tribal assignment or other right of use.

4. Authority of Superintendent: Superintendents may approve mortgages of trust chattels and assignments of income from trust land if additional security should be required by a lender.** Superintendents are authorized and directed to give every assistance to sheriffs or other proper officers in entering upon Indian lands for the purpose of serving execution or other process. This should help to remove any doubt on the part of a lender as to its right to repossess property bought with the proceeds of a loan and mortgaged as security for the loan.

5. Veteran's Experience: An Indian veteran, as well as any other veteran may be required to show appropriate farming experience in order to qualify for a farm loan. He must show that he has adequate range upon which to run livestock, if the loan involves livestock. If farm machinery is to be purchased with the loan, the veteran must show that he has land upon which the machinery will be used, and must show a plan of operation and a large enough enterprise to produce the income sufficient to repay the loan.

6. Title to Property Purchased with Loans: Title to lands, livestock, or other chattels purchased with funds obtained under loans guaranteed under the Act, should not be taken in the United States in trust for the Indian veteran. No restrictions shall be placed upon the property except those which the lender may require in order to protect the loan.

7. Special Provisions Regarding Livestock Loans: In applying for livestock loans, the Indian veteran may authorize the lender to enter immediately upon the land upon default, and to operate thereon for not to exceed 90 days the mortgaged cattle or other livestock repossessed pursuant to the mortgage, but such livestock

** It should be noted, however, that any assignment of income from allotted land inherited by full-blood Indians of the Five Civilized Tribes, Oklahoma, requires approval of County Courts. Tiger v. Sellers, 145 F. (2d) 920, 923. United States v. Noble, 237 U. S. 74, 80.

must be removed at the expiration of 90 days. In the event the mortgaged livestock are to be operated on tribal lands, the privilege of the lender is conditioned upon consent by the tribe, which at the lender's option may be obtained prior to making the loan.

If the lender is unwilling to lend the entire purchase price of property to be purchased with the proceeds of the loan but is willing to lend the entire amount of the purchase price if additional security is supplied, the Indian veteran may, if he owns trust livestock against which no lien exists:

- (a) Request the superintendent to issue to him unrestricted title to the livestock, upon receipt of which a mortgage of that livestock properly may be executed by the Indian veteran, or
- (b) Request the superintendent to approve a mortgage of his trust livestock in favor of the lender. In such cases, permits to sell, issued by the superintendent, and releases, issued by the lender, would be required.

If the veteran has an equity in trust livestock, on which liens are in existence in favor of the United States, and desires to offer a portion of this equity as security to another lender, the superintendent may issue to the veteran, an unrestricted title to, and release on, a portion of the livestock, provided that restriction and lien are retained against livestock of a sufficient value, after the release, to provide reasonable security for the unpaid portion of the indebtedness. Should the lien be in favor of an Indian chartered corporation, tribe, credit association, or other Indian Service lending agency, the superintendent may likewise issue such unrestricted title to livestock, provided such Indian Service lending agency consents thereto in writing.

8. Filing: All liens should be filed in accordance with State laws. Even though the personal property involved is trust property, liens should be filed in the county offices.

9. Land and Housing Loans: An Indian veteran may buy land, either within or without the reservation, taking unrestricted title thereto, and mortgage it as security for the loan. Loans may be made for homes or other buildings to be constructed on such land.

If the lender is unwilling to make loans for buildings to be located on trust allotments, consideration will be given, in very special instances by this office and the Department to the issuance of a fee patent or removal of restrictions on a small tract of land as a homesite, which could then be mortgaged to the lender. Fee patents, certificates of competency, or removal of restrictions will be issued only if the lands involved are not located in an Indian community, are not forest lands or lands in grazing units, and issuance would not interfere with a land use or consolidation program for the reservation.

The contents of this circular should be called to the attention of Indian

veterans, Indian councils, Indian Service lending agencies, regional representatives of the Veterans Administration, and, so far as feasible, to individuals or corporations who are or may be interested in making loans to Indian veterans.

Walter V. Woelke

For the Commissioner.

Approved: November 29, 1945

Oscar L. Chapman

Assistant Secretary

ASSIGNMENT OF INCOME FROM TRUST PROPERTY

In consideration of the granting of a loan to _____ by _____, hereafter called the lender, the undersigned hereby assigns to the lender as security for repayment of such loan, all income from the following described trust land; (Insert full description)

The undersigned hereby grants to the lender, full right, power, and authority in its own name or in the name of the undersigned, to demand, collect, sue, or receipt for any income from such land and to apply all such upon any indebtedness of the undersigned to the holder hereof in accordance with the terms of the note or other evidence of the debt.

The rights, powers and authority herein granted shall be exercised only if payments on the loan are not made as agreed upon, or there be other default by the undersigned as to the provisions of the loan agreement.

This instrument shall not be effective unless approved by the superintendent of the Indian Reservation on which the lands are situated, but immediately upon such approval, evidenced by said superintendent's signature below, this instrument shall be fully effective according to its terms. The superintendent shall be advised in writing of any action which the holder hereof contemplates under this authority, at least ten days prior to exercise of the rights, powers, and authority herein conferred.

(Date)

(Signature)

(Signature)

(Witness)

APPROVED: _____
(Superintendent)

(Witness)

(Date)