

code of federal regulations

Indians

25

Revised as of April 1, 1982

**CONTAINING
A CODIFICATION OF DOCUMENTS
OF GENERAL APPLICABILITY
AND FUTURE EFFECT**

AS OF APRIL 1, 1982

With Ancillaries

Published by
the Office of the Federal Register
National Archives and Records Service
General Services Administration

as a Special Edition of
the Federal Register



used for reporting. The Commissioner may have the records of lenders inspected at any reasonable time during regular business days and hours.

§ 103.53 Suspension of lenders.

Whenever the Commissioner finds that any lender or holder of a guaranty certificate or insured loan fails to maintain adequate accounting records, to demonstrate proper ability to adequately service loans guaranteed or insured, or to exercise proper credit judgment, or has willfully or negligently engaged in practices detrimental to the interests of a borrower or of the United States, he may refuse, either temporarily or permanently, to guarantee or insure any additional loans made by such lender or certificate holder. He may also bar such lender or certificate holder from acquiring additional loans guaranteed under this Part 103. However, the Commissioner shall not refuse to pay a valid guaranty or insurance claim on loans previously made in good faith.

§ 103.54 Probate.

(a) The estates of deceased borrowers who die possessed of trust property or funds and who gave as security for a guaranteed or insured loan an assignment of income from trust property, a mortgage or deed of trust on trust or restricted land, or a lien on trust chattels or crops growing on trust land will be probated in accordance with the applicable regulations in Subpart D of 43 CFR Part 4 and in Parts 16 and 17 of 25 CFR. The Superintendent or other Bureau official having jurisdiction over the trust property and trust funds of a decedent shall promptly notify the lender on receipt of information confirming the demise of a borrower. The notice may be given by furnishing the lender with a copy of the Superintendent's report to the Administrative Law Judge or by separate letter.

(b) A lender receiving information from a Superintendent or otherwise learning of the demise of a borrower shall notify the Administrative Law Judge of the lender's claim against the decedent's trust estate. The lender's notice to the Administrative Law Judge shall include:

- (1) The name of the borrower.
 - (2) The balance owing on the loan.
 - (3) The trust property or income given as security for the loan.
 - (4) A copy of securing documents.
 - (5) A copy of the guaranty certificate or insurance agreement.
- (c) Within 15 days after receiving information that a borrower has died, the lender shall notify the Commissioner of this fact by furnishing a copy of the information provided to the Administrative Law Judge or by separate letter furnishing:
- (1) The name of the borrower.
 - (2) The guaranty certificate number or insurance agreement number.
 - (3) The balance owing on loan.
 - (4) Any anticipated action which will be taken to protect the interests of the lender and the United States.
- (d) The notice shall be sent by registered or certified mail.

PART 111—ANNUITY AND OTHER PER CAPITA PAYMENTS

Sec.

- 111.1 Persons to share payments.
- 111.2 Enrolling non-full-blood children.
- 111.3 Payments by check.
- 111.4 Election of shareholders.
- 111.5 Future payments.

AUTHORITY: 5 U.S.C. 301.

SOURCE: 22 FR 10549, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 111.1 Persons to share payments.

In making all annuity and other per capita payments, the funds shall be equally divided among the Indians entitled thereto share and share alike. The roll for such payments should be prepared on Form 5-322,¹ in strict alphabetical order by families of husband, wife, and unmarried dependent minor children. Unless otherwise instructed, (a) Indians of both sexes may be considered adults at the age of 18 years; (b) deceased enrollees may be carried on the rolls for one payment after death; (c) where final rolls have been prepared constituting the legal

¹ Forms may be obtained from the Commissioner of Indian Affairs, Washington, D.C.

membership of the tribe, only Indians whose names appear thereon are entitled to share in future payments, after-born children being excluded and the shares of deceased enrollees paid to the heirs if determined or if not determined credited to the estate pending determination; and (d) the shares of competent Indians will be paid to them directly and the shares of incompetents and minors deposited for expenditure under the individual Indian money regulations.

CROSS REFERENCES: For regulations pertaining to the determination of heirs and approval of wills, see Part 15 and §§ 11.30 through 11.32C of this chapter. For individual Indian money regulations, see Part 115 of this chapter.

§ 111.2 Enrolling non-full-blood children.

Where an Indian woman was married to a white man prior to June 7, 1897, and was at the time of her marriage a recognized member of the tribe even though she left it after marriage and lived away from the reservation, the children of such a marriage should be enrolled—and, also in the case of an Indian woman married to a white man subsequent to the above date but who still maintains her affiliation with the tribe and she and her children are recognized members thereof; however, where an Indian woman by marriage with a white man after June 7, 1897, has, in effect, withdrawn from the tribe and is no longer identified with it, her children should not be enrolled. In case of doubt all the facts should be submitted to the Bureau of Indian Affairs, Washington, D.C., for a decision.

§ 111.3 Payments by check.

All payments should be made by check. In making payments to competent Indians, each check should be drawn to the order of the enrollee and given or sent directly to him. Powers of attorney and orders given by an Indian to another person for his share in a payment will not be recognized. Superintendents will note in the "Remarks" column on the roll the date of birth of each new enrollee and the date of death of deceased annuitants.

§ 111.4 Election of shareholders.

An Indian holding equal rights in two or more tribes can share in payments to only one of them and will be required to elect with which tribe he wishes to be enrolled and to relinquish in writing his claims to payments to the other. In the case of a minor the election will be made by the parent or guardian.

§ 111.5 Future payments.

Indians who have received or applied for their pro rata shares of an interest-bearing tribal fund under the act of March 2, 1907 (34 Stat. 1221; 25 U.S.C. 119, 121), as amended by the act of May 18, 1916 (39 Stat. 128), will not be permitted to participate in future payments made from the accumulated interest.

PART 112—REGULATIONS FOR PRO RATA SHARES OF TRIBAL FUNDS

Sec.

- 112.1 Fee simple patentees.
- 112.2 Applicants who have received neither fee simple patents nor certificates of competency.
- 112.3 Applicants who are mentally or physically incapable of managing their affairs.
- 112.4 Interest in pro rata shares not vested rights unless application approved.
- 112.5 Basis of distribution; pro rata shares.
- 112.6 Disposition of pro rata share in event of applicant's death.
- 112.7 Pro rata shares of minors.

AUTHORITY: Sec. 2, 34 Stat. 1221, as amended; 25 U.S.C. 121.

SOURCE: 22 FR 10549, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

CROSS REFERENCE: For regulations pertaining to the determination of heirs and approval of wills, see Part 15 and §§ 11.30 through 11.32 of this chapter.

§ 112.1 Fee simple patentees.

When the applicant has been granted a patent in fee or certificate of competency, that fact will be accepted as prima facie evidence of his competency, but in forwarding applications of this class the agent will give the date on which the patent was issued, report whether in his judgment the patentee has made proper use of his privileges