

# TITLE 8. BANKING

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### CHAPTER 1. CONSUMER CREDIT PROGRAM

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#### § 1-101. Policy

It is the policy of the Creek Nation to conduct its Consumer Credit Program under one system, and to make all loans and advances only under the procedures herein. Loans will be made only upon determination that repayments can be made based upon accepted credit analysis and only to enrolled Creek citizens.

[NCA 84-26, § 102, approved June 19, 1984.]

#### Library References

Indians ↻210.  
Westlaw Topic No. 209.  
C.J.S. Indians §§ 57 to 59, 66 to 72.

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### § 1–102. Scope

This chapter will apply to Tribal funds used for credit purposes only.

[NCA 84–26, § 103, approved June 19, 1984.]

### § 1–103. Regulations and instructions

The Creek Nation Consumer Credit Program will comply with Regulation Z<sup>1</sup> of the Federal Reserve Board and the Fair Credit Reporting Act<sup>2</sup> whenever applicable to loans made by the Tribe. The Tribe will also comply with the applicable provisions of the Federal Disaster Protection Act of 1974,<sup>3</sup> Executive Order 11514,<sup>4</sup> the National Environmental Policy Act of 1969,<sup>5</sup> and the Act of June 27, 1960, for preservation of historical and archaeological data, as amended by the Act of May 24, 1974.<sup>6</sup>

[NCA 84–26, § 104, approved June 19, 1984.]

<sup>1</sup> 12 CFR § 226.1 et seq.

<sup>2</sup> 15 U.S.C.A. § 1681 et seq.

<sup>3</sup> So in original; probably should read “Flood Disaster Act of 1973”. See 42 U.S.C.A. § 4002 et seq.

<sup>4</sup> See 7 CFR § 2.62.

<sup>5</sup> 42 U.S.C.A. § 4321 et seq.

<sup>6</sup> See 7 CFR § 656.2; 16 U.S.C.A. § 469 et seq.

#### Library References

Consumer Credit ☞ 32, 33, 50, 52.

Credit Reporting Agencies ☞ 1, 3.

Westlaw Topic Nos. 92B, 108A.

C.J.S. Credit Reporting Agencies; Consumer Protection §§ 1 to 17, 19 to 24, 30 to 31.

C.J.S. Interest and Usury; Consumer Credit §§ 467 to 472, 475 to 485, 487 to 488, 512 to 513.

### § 1–104. Authority

The Executive Office or designated representative will have full authority to act for and on behalf of the Tribal Credit Program in all phases of its credit operations.

[NCA 84–26, § 105, approved June 19, 1984.]

#### Library References

Indians ☞ 216.

Westlaw Topic No. 209.

C.J.S. Indians § 59.

### § 1–105. Credit committee

Applications will be submitted to an in-house Credit Committee who would either recommend same for approval, in whole or in part, conditionally or unconditionally, or return applications on request to the applicants or borrowers, with advice as to why the action was taken. The in-house committee will be made up of the Director of Tribal Affairs and Creek Nation loan officers. This committee will meet monthly to review all loans and make a status report. The committee will make their recommendations to the Executive Office, who will have final approval on all loans.

[NCA 84–26, § 105, approved June 19, 1984; amended by NCA 84–59, § 102, approved Oct. 29, 1984.]

**Library References**

Indians ↻216.  
Westlaw Topic No. 209.  
C.J.S. Indians § 59.

**§ 1-106. Prevention of delinquency**

It will be the responsibility of the Creek Nation Branch of Credit to see that the loans are repaid when due and to see that borrowers make proper use of funds loaned to them. Steps will be taken to see that loans do not become and remain delinquent, either by obtaining payment, by extending the repayment terms or by declaring the loan in default and placing it in liquidation.

[NCA 84-26, § 105, approved June 19, 1984.]

**§ 1-107. Loan Specialist**

A. The Loan Specialist for the Creek Nation will work in close cooperation with the final approving officer and assist applicants and borrowers in the preparation of loan applications and other papers. He will make sure that the borrowers conform to the terms of their loan agreements. He will be responsible to see that the bookkeeping, clerical work, records, reports, securing of required forms, filing, recording, and administrative details necessary for proper operation of the Creek Nation Consumer Credit Program are handled properly.

B. He will check on the property purchases with or given as security for the loan from the Consumer Credit Program. He will not make technical inspections or perform functions which properly fall within the province of other branches of the Bureau. The Loan Specialist will be responsible for prompt filing or recording of all documents given as security for loans. He will see that borrowers are notified when payments are in arrears and that these notifications are properly made a matter of record.

[NCA 84-26, § 106, approved June 19, 1984.]

**§ 1-108. Legal assistance**

The Consumer Credit Program will utilize the Tribe's attorney to handle such legal work as may be necessary in the enforcement of any credit obligations to the Tribe.

[NCA 84-26, § 107, approved June 19, 1984.]

**Library References**

Indians ↻216.  
Westlaw Topic No. 209.  
C.J.S. Indians § 59.

**§ 1-109. Depository**

The depository for credit funds of the Tribe will be a national or state bank or banks. A record of the bank or banks shall be maintained the Credit Office. The bank or banks selected will be members of the Federal Deposit Insurance Corporation. Before any credit funds are deposited in a bank or banks,

arrangements satisfactory to the Principal Chief or Executive Director will be made with the bank or banks, that at any time upon written request, the bank will pay over the balance on hand in the Tribe's account or accounts, or any part thereof.

[NCA 84-26, § 108, approved June 19, 1984.]

**Library References**

Deposits and Escrows ☞31.

Indians ☞210.

Westlaw Topic Nos. 122A, 209.

C.J.S. Depos: §§ 54 to 61.

C.J.S. Indians §§ 57 to 59, 66 to 72.

**§ 1-110. Disbursements**

All disbursements from the Tribe's bank account depository will be by check of the Tribal Treasurer. Disbursements on loans will not be made until the loans have been properly approved in accordance with the provisions of this chapter, nor until loan agreements are complete and the securing instruments, except on property purchases with the loan, have been properly filed or recorded. It would be at the discretion of the Credit Committee to determine if the Loan Specialist is to accompany the borrower to insure proper use of funds.

[NCA 84-26, § 109, approved June 19, 1984; amended by NCA 84-59, § 102, approved Oct. 29, 1984.]

**§ 1-111. Prepayment of expenses**

The final approving officer (Executive Office) may give the Director, Division of Tribal Affairs, authorization to disburse credit funds on deposit in the Tribe's bank account for the purpose of paying filing or recording fees on securing documents, for payment of insurance premiums, and for lien searches and other expenses necessary for protection of the Tribe's interest, and for the prudent operation of its credit program up to one hundred dollars (\$100.00). Any such disbursements will be charged against the borrower, and the Tribe will be reimbursed either from his loan or other funds.

[NCA 84-26, § 109, approved June 19, 1984.]

**§ 1-112. Repayments**

All repayments will be made to an authorized Tribal representative and will be deposited promptly in the Tribe's bank depository. Copies of all receipts will be furnished by the Credit Officer. Payment received shall be applied first to interest due to the date of receipt and the balance to principal. Repayments shall be made in a guaranteed check form, either a cashier's or postal money order made payable to the Creek Nation, Branch of Credit.

[NCA 84-26, § 110, approved June 19, 1984.]

**§ 1-113. Records, reports and audits**

Records and accounts will be maintained in a manner and in accordance with an accounting system satisfactory to the Executive Office and National Council. Such records and accounts will be subject to the applicable provision of the Privacy Act of 1974. An annual audit of the Credit Program will be made as of September 30th each year and contain such information that is

considered essential. Copies of audit reports will be furnished to the National Council and Executive Office.

[NCA 84-26, § 111, approved June 19, 1984.]

**§ 1-114. Approval of loans**

Applications and request for modifications of loans which have been recommended for approval by the Credit Committee will require approval of the Executive Office.

[NCA 84-26, § 112, approved June 19, 1984; amended by NCA 84-59, § 102, approved Oct. 29, 1984.]

**§ 1-115. Restrictions on approval of loans**

A. Loans will not be approved during the period October 1st through October 31st of each year, except in cases of emergency, nor if they fall into any one of the following classes:

1. Undue risk: Where the loan involves undue risk.
2. Factual application: If the applicant falsifies his application or conceals his liabilities.
3. Purchase of unrestricted real property: Where the loan is for the purchase of unrestricted real property, unless the applicant accompanies the application with an up-to-date abstract of title showing clear and marketable title, or furnishes a policy of title insurance satisfactory to the approving officer.
4. Delinquent borrowers: If the applicant is delinquent in repayments of any Tribal loan; however, a borrower may request refinancing of a delinquent loan.
5. Over-extended credit: Where the applicant has over-extended credit.
6. Insufficient collateral: Where the collateral offered is inadequate.
7. Amount of loan: Where the amount of the loan is less than five hundred dollars (\$500) or greater than five thousand dollars (\$5,000).
8. Holding or speculative loans: Loans will not be approved where a substantial amount of the loan will be used for holding or speculative purposes.
9. Number of loans: Only one loan agreement may be in effect with a borrower at a given time.
10. High risk loans: Loans may be made to those individuals who are high risk with one hundred percent (100%) security for the loan. The total amount of these loans shall not exceed twenty percent (20%) of the total monies available to loan. Due to the amount of money to be loaned, maximum amount for each secured risk loan is set at five thousand dollars (\$5,000).

B. Availability of funds. Loans will be approved subject to availability of funds.

[NCA 84-26, § 113, approved June 19, 1984; amended by NCA 84-59, § 102, approved Oct. 29, 1984; NCA 84-64, § 102, approved Oct. 1, 1985.]

**§ 1-116. Objective**

Objective of loans: To provide a ready source of consumer financing to eligible Tribal members at a reasonable rate.

[NCA 84-26, § 114, approved June 19, 1984.]

**§ 1-117. Loan procedure**

**A. Application.** Applications will be on forms provided by the Tribe.

**B. Appraisal.** An actual physical appraisal showing the value of assets of the applicant will be made when such assets are taken as security. This appraisal may be made by an authorized Tribal representative, and bear the signature of the representative.

**C. Unrestricted real property.** Applications for the purchase of real property will be accompanied by an up-to-date abstract of title or a report of application for title insurance showing a clear and marketable title and down payment of at least five percent (5%) of the cost of the property will be required.

**D. Restricted real property.** Applications for trust or restricted lands will contain a title status report from the Title and Record Section of the Bureau of Indian Affairs showing that the applicant has title to the land or if the applicant holds an assignment or lease of the land. The same applies to construction on restricted or trust property.

**E. House repair and improvement loans.** The applicant is required to own a clear title to the land on which the house is situated before the loan may be approved. If the improvements are made on an applicant's unrestricted real property upon which there is a lien, the applicant must own at least a fifty percent (50%) equity in the value of the property. The Tribe, may at the discretion of the approving officer, lend the applicant a sufficient amount to discharge the lien plus the amount of the cost of the proposed improvements. A first mortgage will be required as security on all such loans. Contracts on construction loans will be required to protect both borrower and lender. Payment will be made on a percentage of completion basis, only after inspection of a Tribal representative.

**F. FFA and 4-H Club loans.** Loans may be made to members of FFA and 4-H Club organizations upon recommendations of the leader of the chapter or club or a representative of the State Extension Service.

**G. Credit ratings.** Loans may not be made unless the applicants and/or their co-signers have maintained good credit ratings, or if ratings have not been maintained, they must have good reputation for industry and dependability. Note: There must be compliance with the Fair Credit Reporting Act<sup>1</sup> where consumer credit reports are used or when investigative reports are to be made.

[NCA 84-26, § 115, approved June 19, 1984.]

<sup>1</sup> 15 U.S.C.A. § 1681 et seq.

**§ 1-118. Insurance**

For all loans over one thousand dollars (\$1,000) the appropriate insurance policy will be required. Home loans will require a fire hazard and storm damage policy with a loss payable clause in favor of the Tribe. Equipment

loans will require a credit life insurance policy. Only when loans are less than one thousand dollars (\$1,000) and adequate security is offered will insurance requirement be waived.

[NCA 84-26, § 116, approved June 19, 1984.]

**§ 1-119. Interest and fees**

A. The interest to be charged by the Tribe shall be a rate determined by the Executive Office and will be set quarterly according to the prime rate of interest charged by the U.S. money center commercial banks. The interest rate determined shall be effective on advances made on loans during the quarter the funds are advanced. The interest rate shall be stated in the promissory note(s) executed by the borrower(s) evidencing the advance(s). The interest rate will be set by the final approving officer and it will be at two percent (2%) above the prime rate of interest during that quarter of the calendar year. This interest rate will be charged to all Tribal members. In case of refinancing of prior loans, the amount refinanced as well as the additional amount advanced shall bear interest at the rate determined that quarter. The current interest rate shall be used when loans are refinanced or modified to extend the repayment term.

B. Fees will be charged on all new loans for physical inspection of property and security offered for loans, for the preparation of applications, maintenance of accounting records, and to assist in meeting other expenses, in accordance with the following schedule:

1. Loan fee will be one percent (1%) of the total dollars loaned to the nearest dollar not to exceed thirty dollars (\$30). No loan fee will be charged on the refinanced portion of a Tribal loan.

2. In cases where restricted land is pledged as security, a fee equivalent to the costs necessary to perfect the mortgage will be charged.

[NCA 84-26, § 117, approved June 19, 1984.]

**§ 1-120. Disposition of property**

The Executive Office will have the authority to release property purchased with, or given as security for loans under the following conditions:

**A. Repayment of security.** Where the proceeds from sale of the property are applied on the loan or used to purchase other capital goods which are given as security for the loan.

**B. Exchange.** Where the property is exchanged for other property which is given as security for the loan.

**C. Other.** Where the loan is otherwise adequately secured.

[NCA 84-26, § 118, approved June 19, 1984.]

**§ 1-121. Title to property**

Title to property purchased with loan funds shall be taken in the name of the borrower, except land, title to which was in trust or restricted status prior to

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purchase may be taken in the name of the United States in trust for the borrower.

[NCA 84–26, § 119, approved June 19, 1984.]

### **Library References**

Indians ☞151, 152, 172.  
Westlaw Topic No. 209.

C.J.S. Indians §§ 37 to 38, 96 to 97, 101 to  
108, 110 to 111, 128.

### **§ 1–122. Annual inspection**

The Loan Specialist will make an annual inspection of each borrower's assets.

[NCA 84–26, § 120, approved June 19, 1984.]

### **§ 1–123. Filing and recording**

All recording or filing costs including cost of lien searchers, will be at the expense of the borrower. The Tribe may advance funds necessary for this purpose and charge the borrower therefor if the borrower does not have funds of his own available. Securing documents, except assignments of income from trust land may be filed in the Agency Office. Where security interest in crops are taken as collateral for loans, new security agreements and financing statements will be taken as necessary and filing requirements adhered to in accordance with state laws. Any mortgage on real estate shall be released by the Tribe of any such mortgage within fifty (50) days of the payment of the debt secured by the mortgage and the Tribe shall file the release of the mortgage with the County Clerk where the mortgage is recorded.

[NCA 84–26, § 121, approved June 19, 1984.]

### **§ 1–124. Security**

Borrowers must provide security in an amount adequate to protect the loan. Unless other adequate security is available, the property purchased with the loan will be mortgaged to the Tribe as security. In certain cases a down payment or other forms of security will be required.

[NCA 84–26, § 122, approved June 19, 1984.]

### **§ 1–125. Maturity**

The maturity of loans to Tribal members will be scheduled for repayment at the earliest possible date consistent with each borrower's ability to repay. The longest term available will be four (4) years.

[NCA 84–26, § 123, approved June 19, 1984.]

### **§ 1–126. Repayment terms**

A. Majority of loans will be short term with some intermediate term financing.

B. No loan shall be made beyond four (4) years.

C. Repayments made will be in a guaranteed check form, either a cashier's check or personal money order made payable to the Creek Nation of Oklahoma.

D. Repayments received will first be applied to interest accrued from the date of the last payment received, then rest applied to principal on the loan. Interest will be accrued daily on a three hundred sixty (360) day year. [NCA 84-26, § 124, approved June 19, 1984.]

**§ 1-127. Delinquencies**

A. The Tribe will follow the policy as loans or installments on loans become due, or collect, extend or liquidate. Loans will not be permitted to remain delinquent for more than ninety (90) days at any particular time, except loans which are in process of liquidation, or loans which have been charged off the active accounting records of the Tribe's Credit Program.

B. The following procedures will be adhered to regarding delinquent loans:

1. If payment is not received within ten (10) days after due date, the borrower will be written a letter requesting payment.

2. If payment is not received within the next ten (10) days, a past due notice will be sent to the borrower requesting payment or that they come to the office to discuss their loan.

3. If the borrower has not responded to collection letters or attempted to contact the Branch of Credit, the borrower will be personally contacted by a Tribal representative to collect the loan.

4. If payment is not received within the next twenty (20) days, borrower will be sent a final notice by registered mail advising borrower that if payment is not made, their loan will be placed in default and liquidated.

5. The following steps will be implemented after the loan has been declared in default:

a. Give the borrower an opportunity to bring the loan current by any means available.

b. Request the borrower to try other credit sources for refinancing.

c. Request the borrower to consider voluntary liquidation.

6. Credit officer and/or any Tribal representative will personally contact the borrower to proceed with liquidation of the loan.

7. Foreclosure by legal action.

[NCA 84-26, § 125, approved June 19, 1984.]

**Cross References**

Mortgage Foreclosure and Eviction Code, see Title 24, § 7-101 et seq.

**§ 1-128. Modification of plan**

This chapter may be amended or modified from time to time upon request of the Executive Office and approval of the National Council.

[NCA 84-26, § 126, approved June 19, 1984.]

**§ 1-129. Program administration**

Administration costs will not exceed ten percent (10%) of the total budget.

[NCA 84-26, § 127, approved June 19, 1984.]