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HOUSING
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**TITLE 18
HOUSING**

**CHAPTER ONE
GENERAL PROVISIONS**

Section 18.1.1. Applicability

The following title shall hereinafter be referred to as the "Seminole Nation of Oklahoma Tribal Housing Ordinance." It shall apply to any and all arrangements, formal or informal, written or agreed to orally or by the practice of the parties, in selling, buying, renting, leasing, occupying, or using any and all housing, dwellings, or accommodations for human occupation and residence. It shall also apply to any and all mortgages, leasehold mortgages and agreements to secure an interest in a building.

The following arrangements are not governed by this Ordinance:

- (A) Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service; or
- (B) Occupancy in a hotel, motel, or other commercial lodging.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.1.2. Jurisdiction

- (A) Jurisdiction is extended over all buildings and lands intended for human dwelling, occupation or residence which may lie within:
 - (1) The exterior boundaries of the Reservation;
 - (2) Lands owned by, held in trust for, leased or used by the Tribe, its members, its housing authority, or any other entity of the Tribe; or
 - (3) The Indian Country of the Tribe, as may be defined from time to time by the laws of the Tribe or of the United States.
- (B) Jurisdiction is extended over all persons or entities within the jurisdiction of the Tribe, who sell, rent, lease, or allow persons to occupy housing, dwellings, or accommodations for the purpose of human dwelling, occupation, or residence, and all persons who buy, rent, lease, or occupy such structures. Such personal jurisdiction is extended over all persons and entities, whether or not they are members of the Tribe, whether they are Indian or non-Indian, and whether they have a place of business within the Tribal Reservation. Any act within the Reservation dealing with the subject matter of this Ordinance shall be subject to the jurisdiction of the Tribe.

- (C) Jurisdiction is extended over:
- (1) All buildings which may lie upon lands owned by, held in trust for, leased or used by the Tribe, its members, its Housing Authority, or any other entity of the Tribe.
 - (2) All persons or entities within the jurisdiction of the Tribe who lease, mortgage, or otherwise secure an interest in a building.
 - (3) All persons supplying contracting services to the Housing Authority of the Seminole Nation. As a precondition to any contract for services between the Housing Authority of the Seminole Nation and any person supplying contracting services, (e.g. construction, rehabilitation, electrical, plumbing), the contractor shall be deemed to have submitted themselves to the jurisdiction of the Seminole Nation of Oklahoma, including its courts or tribunals, and including the Seminole Nation Housing Authority for all purposes under any agreement between the Seminole Nation Housing Authority and the contractor.
- (D) Jurisdiction over all matters arising within the jurisdiction of the Tribe with respect to the subjects of this Ordinance, and jurisdiction with respect to any person or entity acting or causing actions which arise under this Ordinance shall be exercised by the Tribal Court.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.1.3. Purposes and Interpretation

This Ordinance shall be interpreted and construed to fulfill the following purposes:

- (A) To simplify the law governing the occupation of dwelling units, and to protect the rights of landlords and tenants.
- (B) To preserve the peace, harmony, safety, health and general welfare of the people of the Tribe and those permitted to enter or reside on the Reservation.
- (C) To provide eviction procedures and to require landlords to use those procedures when evicting tenants.
- (D) To encourage landlords and tenants to maintain and improve dwellings on the Reservation in order to improve the quality of housing as a tribal resource.
- (E) To simplify the law governing the rights, obligations, and remedies of the owners, sellers, buyers, lessors, and lessees, of buildings.
- (F) To avail the Tribe, tribal entities, and tribal members of financing for the construction and/or purchase of family residences on trust land within the jurisdiction of the Tribe by prescribing procedures for the recording, priority and

foreclosure of mortgages given to secure loans made by or through any government agency or lending institution.

- (G) To establish laws and procedures which are necessary in order to obtain governmental funding for tribal housing programs or loan guarantees for private or tribal housing construction, purchase, or renovation.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.1.4. Relation to Other Laws

- (A) Applicable Law. Unless affected or displaced by this Ordinance, principles of law and equity in the common law of the Tribe and tribal customs and traditions are applicable, and the general principles of law common to foreign jurisdictions may be used as a guide to supplement and interpret this Ordinance.
- (B) Other Applicable Laws. Additional tribal and federal laws may apply with regard to tribal housing such as the ordinance establishing the Indian Housing Authority and governmental housing laws and regulations.
- (C) Conflicts With Other Laws.
 - (1) Tribal Laws: To the extent that this Ordinance may conflict with tribal laws or ordinances which have been enacted to comply with statutes or regulations of any agency of the United States, such tribal laws or ordinances shall govern over the provisions of this Ordinance if the general law has specific applicability and it is clearly in conflict with the provisions of this Ordinance.
 - (2) Federal Laws: Where a conflict may appear between this Ordinance and any statute, regulation, or agreement of the United States, the federal law shall govern if it has specific applicability and if it is clearly in conflict with the provisions of this Ordinance.
 - (3) State Laws: To the extent that the laws of any state may be applicable to the subject matter of this Ordinance, such laws shall be read to be advisory only, and not directly binding and shall not govern the relations of the parties.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.1.5. Definitions

As used in this Ordinance, the following words will leave the meanings given them in this Section unless the context plainly requires other

- (A) *Action, suit or lawsuit, claim, complaint or defense* shall include any dispute between persons or entities which relates to the sale, rental, use or occupancy of any housing, dwelling, or accommodation for human occupancy, including claims for the payment of monies for such housing, dwellings, or accommodations, damages to such units, condition of such units or the relationships between owners and occupiers of such units, including the right to occupy them.
- (B) *Adult Person*, is any person eighteen (18) years of age or older.
- (C) *Borrower/Mortgagor* is the Seminole Nation of Oklahoma, the Housing Authority of the Seminole Nation, or any individual Indian(s) or any heir(s), successor(s), executor(s), administrator(s), or assign(s) of the Seminole Nation or such Indian(s) or non-Indian(s) who has executed a Mortgage as defined in this Ordinance or a Leasehold Mortgage as defined in this Ordinance.
- (D) *Building* is a structure, and any appurtenances or additions thereto, designed for habitation, shelter, storage and the like.
- (E) *Building or housing Ordinances* are any law, ordinance, or governmental regulation of the Seminole Nation of Oklahoma or an agency of the United States which deals with fitness for habitation, health conditions, or the safety, construction, maintenance, operation, occupancy, use, or appearance of any dwelling unit.
- (F) *Dwelling unit* is a house, mobile home or building or portion thereof which is rented or leased as a home or residence by any person, not including public transient accommodation, such as hotel rooms.
- (G) *Guest* is any person, other than the tenant, in or around a dwelling unit with the permission and consent of the tenant.
- (H) *He/His*: the use of he/his means he or she, his or her, and the singular includes the plural.
- (I) *Housing Authority* is the Housing Authority of the Seminole Nation which is the Tribally Designated Housing Entity, authorized or established under the authority of the Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104-330).
- (J) *Indian* is any person recognized as being an Indian or Alaska Native by any Tribe, or by the government of the United States.
- (K) *Landlord* can be the Seminole Nation of Oklahoma, Housing Authority of the Seminole Nation, a person, entity or federal government agency which is the owner, lessor, or sublessor of a dwelling unit intended for the use of tenants.

- (L) *Lease* is an agreement, written or oral, as well as valid rules and regulations, regarding the tenants and conditions of the use and occupancy of real property, dwelling unit, building, or premises, including a lease-to-purchase agreement.
- (M) *Leasehold Mortgage* is the mortgage of a lease of property given to secure a loan, and may be created under the auspices of any federal agency homebuyer program, the Indian Housing Authority, or any other agreement entered between a Borrower/Mortgagor and a Lender/Mortgagee.
- (N) *Mortgage Foreclosure Proceeding* is a proceeding:
- (1) To foreclose the interest of the Borrower(s)/Mortgagor(s), and each person or entity claiming through the Borrower(s)/Mortgagor(s), in real property, a building, mobile home or in the case of a Leasehold Mortgage, a Lease for which a Mortgage has been given under the home purchase program of any federal agency; and
 - (2) To assign where appropriate the Borrower(s)/Mortgagor(s) interest to a designated assignee.
- (O) *Lender Designated Assignee*. Any lender as defined in this Ordinance may assign or transfer its interest in a Mortgage or Lease and/or Leasehold Mortgage to a Designated Assignee.
- (P) *Lender/Mortgagee* is any private lending institution established to primarily loan funds and not to invest in or purchase properties, the Seminole Nation of Oklahoma, the Housing Authority of the Seminole Nation, an Indian Housing Authority, or a U.S. government agency or private individual which loans money, guarantees or insures loans to a Borrower for construction, acquisition, or rehabilitation of a home, including a mobile home. It is also any lender designated assignee(s) or successor(s) of such Lender/Mortgagee.
- (Q) *Lessor* is the legal, beneficial, or equitable owner of property under a Lease. Lessor may also include the heir(s), successor(s), executor(s), administrator(s), or assign(s) of the lessor.
- (R) *Lessee* is a tenant of a dwelling unit, user and/or occupier of real property, or the homebuyer under any federal mortgage program including the Mutual Help program. The lessee may, for purposes of federal agency home mortgage programs, be the Housing Authority of the Seminole Nation.
- (S) *Mortgage* is a lien as is commonly given to secure advances on, or the unpaid purchase price of a building, mobile home or land, and may refer both to a security instrument creating a lien, whether called a mortgage, deed of trust, security deed, or other term, as well as the credit instrument, or note, secured thereby.
- (T) *Mortgagor/Borrower* - see Borrower/Mortgagor.

- (U) *Mortgagee/Lender* - see Lender/Mortgagee.
- (V) *Mobile home* is a structure designed for human habitation and for being moved on a street or highway. Mobile home includes pre-fab, modular and manufactured homes. Mobile home does not include a recreational vehicle or a commercial coach.
- (W) *Nuisance* is the maintenance or allowance on real property of a condition which one has the ability to control and which unreasonably threatens the health or safety of the public or neighboring land users or unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of their property.
- (X) *Owner* is any person or entity jointly or individually having legal title to all or part of land or a dwelling, including the legal right to own, manage, use, or control a dwelling unit under a mortgage, long-term lease, or any other security arrangement.
- (Y) *Person* includes the Seminole Nation, Housing Authority of the Seminole Nation, an individual or organization, and where the meaning of a portion of this Ordinance requires, it means a public agency, corporation, partnership, or any other entity.
- (Z) *Premises* is a dwelling unit and the structure of which it is a part, and all facilities and areas connected with it, including grounds, common areas, and facilities intended for the use of tenants or the use of which is promised for tenants.
- (AA) *Rent* is all periodic payments to be made to a landlord or lessor Under a lease.
- (BB) *Rental agreement* - see Lease.
- (CC) *Reservation* is the Seminole Reservation as defined by the Constitution of the Seminole Nation of Oklahoma.
- (DD) *Shall*, for the purposes of this Ordinance, will be defined as, mandatory or must.
- (EE) *Subordinate Lienholder* is the holder of any lien, including a subsequent mortgage, perfected subsequent to the recording of a Mortgage under this Ordinance, except the Tribe shall not be considered a subordinate lienholder with respect to any claim regarding a tribal tax on real property.
- (FF) *Tenant* is the lessee(s), sublessee(s), or person(s) entitled under a lease or Mutual Help Occupancy Agreement or Lease with Option to Purchase Agreement to occupy a dwelling unit to the exclusion of others.
- (GG) *Tribal Court* is the Court, including the CFR Court for the Seminole Nation, as established by the laws of this Tribe or such body as may now or hereafter be

authorized by the laws of the Tribe to exercise the powers and functions of a Court of law.

(HH) *Tribe* is the Seminole Nation of Oklahoma.

[History: Ordinance 2003-11, March 4, 2003.]

CHAPTER TWO
LANDLORD/TENANT RESPONSIBILITIES AND REMEDIES

Section 18.2.1.Rental Agreements

- (A) Effect of Rental Agreements. The provisions of this Ordinance, as well as the applicable laws identified in §18-1-4, establish the minimum rights and responsibilities of landlords and tenants. Unless inconsistent therewith, rental agreements shall supplement these minimum rights and responsibilities.
- (B) Terms Prohibited in Rental Agreements. No rental agreement shall provide that the tenant agrees: (1) to waive or forfeit his rights or remedies under this Ordinance or any other applicable laws as identified in §18-1-4; (2) to exculpate or limit the liability of the landlord or to indemnify the landlord for that liability or the costs connected therewith; (3) to permit the landlord to dispossess a tenant without resort to court order; or (4) to pay a late charge prior to the expiration of the grace period set forth in §18-3-I(A). A provision prohibited by this subsection shall be void and unenforceable.
- (C) Term of Tenancy. In the absence of a definite term in the rental agreement, the tenancy shall be month-to-month.
- (D) Payment of Rent. In the absence of definite terms in the rental agreement, rent is payable at the landlord's office. In the absence of definite terms, the amount of rent shall be the fair market value of the rental unit.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.2.2 Rules and Regulations

- (E) The landlord may promulgate reasonable rules and regulations regarding the use and occupancy of the dwelling unit.
- (F) Such rules and regulations are enforceable against the tenant only if:
 - (1) their purpose is to promote the convenience, safety or welfare of the tenants in the premises, preserve the landlord's property from abusive use or make a fair distribution of services and facilities held out for all the tenants generally;
 - (2) the rules and regulations are reasonably related to the purpose for which they are adopted;
 - (3) the rules and regulations apply to all tenants in the premises in a fair manner;

- (4) the rules and regulations are sufficiently explicit in their prohibition, direction or limitation of the tenant's conduct to fairly inform him of what he shall or shall not do to comply; and
- (G) If a rule or regulation that would result in a substantial modification of the terms of the rental agreement is adopted after the tenant enters into the rental agreement, such rule or regulation is not valid as to that rental agreement unless the tenant consents to such rule or regulation in writing.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.2.3. Landlord Responsibilities

Except as otherwise fairly and reasonably provided in a rental agreement or a Mutual Help Occupancy Agreement or Lease with Option to Purchase Agreement, each landlord subject to the provisions of this Ordinance shall:

- (A) Maintain the dwelling unit in a decent, safe, and sanitary condition.
- (B) Comply with applicable building and housing Ordinances.
- (C) Make all necessary repairs to put and maintain the premises in a fit and habitable condition, except where the premises are intentionally rendered unfit or uninhabitable by the tenant or his guest, in which case such duty shall be the responsibility of the tenant.
- (D) Keep common areas clean, safe, and secure.
- (E) Ensure tenant access to the dwelling unit.
- (F) Maintain in good condition and safe working order all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, where such things are not the responsibility of the tenant or are generated by an installation within the exclusive control of the tenant.
- (G) Provide and maintain proper and appropriate receptacles and facilities for the disposal of ashes, garbage, rubbish, and other waste, except to the extent the tenant is required to provide such for himself.
- (H) Provide running water, hot water, and heat in accordance with applicable building and housing Ordinances, except to the extent the tenant is required to provide such for himself.
- (I) Guarantee the right of quiet enjoyment of the dwelling unit to the tenant and insure that the conduct of other tenants, their guests, and other persons on the premises does not cause a nuisance, endangerment of public health and safety, breach of peace, or interference with the quiet enjoyment of the tenant.

- (J) Give sole possession of the dwelling unit to the tenant in accordance with the rental agreement and refrain from:
 - (1) entering the unit, except as authorized in §18-2-4(K);
 - (2) making repeated demands for entry otherwise lawful under §18-2-4(K) but which have the effect of unreasonably harassing the tenant;
 - (3) sexually harassing or physically assaulting the tenant in or around his dwelling unit; or
 - (4) locking the tenant out of his dwelling unit without the tenant's consent.
- (K) Disclose, in writing, the name, address, and telephone number of the person responsible for receiving rent, notices and demands under this Ordinance, the person authorized to manage the dwelling unit, the owner of the premises or his agent, and the person responsible for making repairs, where they are required.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.2.4. Tenant Responsibilities

Except as otherwise fairly and reasonably provided in a rental agreement or mutual help occupancy agreement, each tenant subject to the provisions of this Ordinance shall:

- (A) Pay rent without demand or notice at the time and place agreed upon by the parties.
- (B) Immediately notify the landlord of any defects in the premises hazardous to life, health, or safety.
- (C) Keep the dwelling unit reasonably clean and dispose of all ashes, garbage, rubbish, junk, and abandoned vehicles in a proper, sanitary, and safe manner.
- (D) Use all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances which are part of the dwelling unit or premises, and the property of the landlord, in a proper, safe, sanitary, and reasonable manner.
- (E) Refrain from destroying, defacing, damaging, or removing any part of the dwelling unit, premises, or common areas, and to require guests to act in like manner.
- (F) Pay reasonable charges for the repair of damages, other than normal wear and tear, to the dwelling unit, premises, or common areas caused by the tenant or his guests, or to repair such damages as required under the rental agreement, within thirty (30) calendar days of such damage.

- (G) Conduct himself, and require his guests to conduct themselves, in a manner which does not disturb the quiet enjoyment of others or cause a breach of the peace.
- (H) Not give up the dwelling unit to others, assign a lease arrangement, or sublease the dwelling unit without the written or oral permission of the landlord.
- (I) Use the dwelling unit only for residential purposes as agreed, and not to use the unit or permit its use for any other purpose, including illegal conduct or any other activity which may harm the physical or social environment of the premises or the area around it.
- (J) Abide by all rules and regulations promulgated by the landlord in accordance with §18-2-2 of this Ordinance.
- (K) Provide the landlord access to the dwelling unit to perform maintenance and repairs, inspect the premises, supply necessary or agreed services, or show the dwelling unit to prospective buyers or tenants, provided that such access shall be at reasonable times when the tenant is present, and upon reasonable written or oral notice from the landlord, except in emergency situations where the health, safety or welfare of the tenant or the tenant's neighbors is in immediate danger or where the tenant consents. No tenant who unreasonably denies access to a landlord for these purposes may pursue an action or grievance on the grounds that any services or repairs were not provided.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.2.5. Tenant Remedies

- (A) Conditions. Where a landlord has not complied with his responsibilities regarding dwelling unit conditions, as set forth in §18-2-3(A)—(K) of this Ordinance or with the terms of his lease, and where the tenant has given notice to the landlord and the landlord has failed, within a reasonable period of time (such period shall be of not less than 30 days), to cure his noncompliance, the tenant may:
 - (1) Withhold rent in cases where the landlord's noncompliance renders the dwelling unit uninhabitable; or
 - (2) Make necessary repairs and deduct the cost of such repairs from his rent; or
 - (3) Institute an action in the Tribal Court seeking:
 - (i) an order compelling the landlord to comply with his responsibilities as set forth in §18-2-3(A)—(K) of this Ordinance;
 - (ii) an award of money damages, which may include a retroactive abatement of rent; and/or

- (iii) such other relief in law or equity as the court may deem proper, provided that no tenant may institute such an action if a valid notice to quit based upon nonpayment of rent has been served on him prior to his institution of the action. Where a landlord violates his responsibilities as set forth in §18-2-3(I) or §18-2-3(J) of this Ordinance, damages shall be not less than an amount equal to one month's rent and tenant shall be further entitled to reasonable attorney's fees.
- (4) Terminate the rental agreement.
- (B) Identification of Landlord. Where a landlord fails to identify himself to the tenant in accordance with §18-2-3(k) of this Ordinance, the tenant is under no obligation to pay rent and may terminate any existing rental agreement.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.2.6. Landlord Remedies

Where a tenant has not complied with this Ordinance or the agreement of the parties, the landlord has the right to:

- (A) Give reasonable notice to the tenant to comply with his obligations, pay any monies due and owing under the agreement of the parties, or landlord has right to terminate the agreement under which the tenant occupies the premises, and demand that he and those with him leave the premises.
- (B) Require repairs or maintenance which are the responsibility of the tenant and compliance with reasonable rules and regulations for occupancy.
- (C) Seek a Court order or judgment for the payment of monies or costs, for compliance with the agreements and obligations of tenants, for termination of an agreement, payment of damages, eviction of tenants, or any other relief to which he may be entitled by law or the agreement of the parties.

Section 18.2.7. Abandoned Dwelling Units

Where a dwelling has been abandoned (the tenant has vacated without notice and does not intend to return which is evidenced by removal of possessions, nonpayment of rent, disconnected utilities, or expressed to the landlord or third party) a landlord, without further notice to the tenant may post a notice on the dwelling stating that the landlord intends to take possession and that the tenant's possessions will be inventoried and removed within ten (10) days from the posting. If the tenant's possessions are not claimed within thirty (30) days from their removal from the abandoned dwelling, the landlord may dispose of the possessions, in accordance with §18-4-15 of this Ordinance. If the abandoned property is of cultural, religious, or ceremonial significance, the landlord shall have an affirmative duty to locate next of kin and/or contact the Tribe in order to return these items. The landlord need not comply with the procedures set forth

in Chapter 3 of this Ordinance to obtain possession of a dwelling unit which has been abandoned.

[History: Ordinance 2003-11, March 4, 2003.]

CHAPTER THREE
GROUNDS FOR EVICTION/NOTICE TO PRE-EVICTION OPTIONS

Section 18.3.1. Grounds for Eviction

A person may be evicted for:

- (A) Nonpayment of rent under an agreement for the lease purchase or occupation of a dwelling when such payments are not made after ten (10) calendar days of the agreement date of payment, or ten (10) calendar days following the first day of the month in a month-to-month tenancy.
- (B) Any agreement in rent, costs, or damages which have been due and owing for thirty (30) calendar days or more. The receipt by a landlord of partial payments under an agreement shall not excuse the payment of any balance due upon demand.
- (C) Nuisance, intentional or reckless damage, destruction, or injury to the property of the landlord or other tenants, or disturbing another tenant's right to quiet enjoyment of a dwelling unit.
- (D) Serious or repeated violations of the rental agreement, any reasonable rules or regulations adopted in accordance with §18-2-2, this Ordinance, or any applicable building or housing Ordinances.
- (E) Occupation of any premises without permission or agreement, following any reasonable demand by a person in authority over the premises to leave.
- (F) Under other terms in the rental agreement which do not conflict with the provisions of this Ordinance.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.3.2. Notice to Quit Requirements

- (A) When Notice to Quit is Required. When a landlord desires to obtain possession of a dwelling unit, and when there exists one or more legally cognizable reasons to evict the tenant or tenants occupying the unit as set forth in §18-3-1, the landlord shall give notice to the adult tenants to quit possession of such dwelling unit according to the provisions of this chapter.
- (B) Purpose of Notice to Quit. The purpose of the notice to quit is to provide advance notice to the tenant of a specific problem which needs to be addressed. It is also intended to induce the tenant to enter into discussions with the landlord in order to resolve the problem.

- (C) Statement of Grounds for Eviction Required. The notice to quit shall be addressed to the adult tenants of the dwelling unit and shall state the legally cognizable reasons(s) for termination of the tenancy and the date by which the tenant is required to quit possession of the dwelling unit.
- (D) Form of Notice. The notice shall be in writing substantially in the following form:
- "I (or we) hereby give you notice that you are to quit possession or occupancy of the dwelling unit now occupied by you at (here insert the address or other reasonable description of the location of the dwelling unit), on or before the (here insert the date) for the following reason (here insert the legally cognizable reason or reasons for the notice to quit possession using the statutory language or words of similar import). Signed, (here insert the signature, name and address of the landlord, as well as the date and place of signing)."
- (E) Time Requirements for Notice. The notice must be delivered within the following periods of time:
- (1) No less than seven (7) calendar days prior to the date to quit specified in the notice for any failure to pay rent or other payments required by the agreement.
 - (2) No less than three (3) calendar days prior to the date to quit specified in the notice for nuisance, serious injury to property, or injury to persons. In situations in which there is an emergency, such as a fire or condition making the dwelling unsafe or uninhabitable, or in situations involving an imminent or serious threat to public health or safety, the notice may be made in a period of time which is reasonable, given the situation.
 - (3) No less than fourteen (14) calendar days in all other situations.
- (F) Indian Housing, Authority Termination Notice. When the landlord is an Indian Housing Authority, the housing authority termination notice shall qualify as the notice to quit required under this section so long as the time requirements of the housing authority termination notice are at least as long as the time requirements set forth in §18-3-2(E) of this Ordinance.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.3.3. Serving the Notice to Quit

Any notice to quit must be in writing, and must be delivered to the tenant in the following manner:

- (A) Delivery must be made by an adult person.

- (B) Delivery will be effective when it is:
- (1) Personally delivered to a tenant with a copy delivered by mail, or
 - (2) Personally delivered to an adult living in the premises with a copy delivered by mail, or
 - (3) Personally delivered to an adult agent or employee of the tenant with a copy delivered by mail.
- (C) If the notice cannot be given by means of personal delivery, or tenant cannot be found, the notice may be delivered by means of:
- (1) Certified mail, return receipt requested, at the last known address of the landlord or tenant, or
 - (2) Securely taping a copy of the notice to the main entry door of the premises in such a manner that it is not likely to blow away, and by posting a copy of the notice in some public place near the premises, including a tribal office, public store, or other commonly frequented place and by sending a copy first class mail, postage prepaid, addressed to the tenant at the premises.
- (D) The person giving notice must keep a copy of the notice and proof of service in accordance with this section, by affidavit or other manner recognized by law.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18 3.4. Pre-Eviction Options

- (A) Negotiated Settlement. After a Notice to Quit is served upon a tenant, the landlord and tenant may engage in discussions to avoid a proceeding to evict and to settle the issues between the parties. The agreement to enter into discussions will not affect the rights of the parties unless the parties reach an agreement to waive any of their rights.
- (B) Stay of Proceedings. Where the parties mutually agree in good faith to proceed with such discussions, and Judicial Eviction procedures have been initiated, the Court will stay such proceedings until it is notified by one or both parties that a hearing is required or that a settlement has been reached.
- (C) Settlement Options. In reaching an agreement, the parties may consider, but are not limited to the following options:
- (1) The parties may employ the use of advocates or attorneys;
 - (2) The parties may employ the use of a mediator or conciliator;

- (3) The parties may agree to arbitrate the issues in binding arbitration;
- (4) The parties may agree to options set forth in Section §18-4-8(A)(4)(8);
- (5) The parties may agree to any other barter for services and goods, or to any other means of securing a fair exchange of value for the use of the dwelling;
- (6) The parties may agree to dismiss the matter in exchange for any agreement reached;
- (7) The parties may agree to stipulate to a judgment to be entered by the Court.

[History: Ordinance 2003-11, March 4, 2003.]

CHAPTER FOUR JUDICIAL EVICTION PROCEDURES

Section 18.4.1. Summons and Complaint

If, after the date set forth in the notice to quit for the tenant to quit possession of the dwelling unit, the tenant has not quit possession, the landlord may file a complaint in the Tribal Court for eviction and such other relief as the Court may deem just and proper. The complaint shall state:

- (A) The names of the adult tenant(s) against whom the suit is brought;
- (B) A description of the rental agreement, if any;
- (C) The address or reasonable description of the location of the premises;
- (D) The grounds for eviction;
- (E) A statement showing that the notice to quit and any required termination notices have been served in accordance with this Ordinance or other applicable law; and
- (F) A statement of the relief demanded, including any claim(s) for possession of the dwelling unit, damages, fees, costs, or other special relief.
- (G) If the landlord is an Indian Housing Authority, a statement that the Indian Housing Authority has complied with all required regulatory processes prior to filing the eviction action.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.2. Action Upon Filing Complaint

When a complaint is filed in the Tribal Court, it shall be immediately presented to a Tribal Court Judge. This shall be on the date of filing, or, if no judge is present, on the first regular Court day after filing or when a judge may first be found. The judge shall review the complaint and shall, if it appears to be in compliance with §18-4-1 and served as set forth in §18-3-3, issue an order of the Court requiring the defendant named in the complaint to appear before the Court on a certain date to contest the complaint. The date for appearance for answering the complaint shall be no less than three (3) calendar days after the date of the order in matters involving serious nuisance or ten (10) calendar days in all other cases. Upon setting of the date for appearance, the plaintiff shall have defendant served with the complaint and a summons to appear for the court date.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.3. Commencement of Proceedings

- (A) If the tenant appears before the Court in person or in writing to contest the complaint, the Court shall set a hearing date. Any written response shall state any defenses or factual disputes and where any defendant appears in person, a written

response shall be served upon the plaintiff within five (5) calendar days of any hearing, excluding weekends and holidays.

- (B) The Court shall set a hearing date which is no more than fifteen (15) calendar days following the date for appearance, except when the hearing date would fall on a weekend or holiday, and in such a situation on the first regular Court day following that date.
- (C) A defendant may, for good cause shown, and upon the payment of a reasonable sum for the fair rental value of the premises between the date on which the complaint was filed and the date of hearing, obtain an extension of time, beyond the fifteen (15) day period. The Court may refuse to extend the date of hearing where the complaint is based upon nuisance or injuries provided in §18-3-1(C), and shall not extend the date of hearing where the complaint is based upon conduct which is alleged to constitute a serious danger to public health, safety, or peace.
- (D) The Court may in its discretion on motion from the landlord order the tenant to pay into the Court rents for the use and occupancy during the pendency of the eviction case.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.4. Defenses

The Court shall grant the remedies allowed in this Ordinance, unless it appears by the evidence that:

- (A) The premises are untenable, uninhabitable, or constitute a situation where there is a constructive eviction of the tenant, in that the premises are in such a condition, due to the fault of the landlord, that they constitute a real and serious hazard to human health and safety and not a mere inconvenience.
- (B) The landlord has failed or refused to make repairs which are his responsibility after a reasonable demand by a tenant to do so, without good cause, and the repairs are necessary for the reasonable enjoyment of the premises.
- (C) There are monies due and owing to the tenant because he has been required to make repairs which are the obligation of the landlord and the landlord has failed or refused to make them after a reasonable notice. Such sums may be a complete or partial defense to a complaint for eviction, but only to the extent that such sums set off monies owed for occupancy. A tenant may be evicted after such a period if he fails or refuses to pay the reasonable rental value of the premises.
- (D) That due to the conduct of the landlord, there is injury to the tenant in such a way that justice requires that relief be modified or denied. This shall include the

equitable defenses of estoppel, laches, fraud, misrepresentation, and breaches of serious and material obligations for public health, safety, and peace standards.

- (E) That there are such serious and material breaches of applicable housing law on the part of the landlord that it would be unjust to grant him a remedy.
- (F) The landlord is evicting the tenant because of his/her race, sex, sexual orientation, religion, age, marital status, family status, or because the tenant is disabled.
- (G) The landlord terminated the tenancy in retaliation for the tenant's attempt to secure his rights under this Ordinance or to force the landlord to comply with his duties under this Ordinance.
- (H) Any other material or relevant fact the tenant might present that may explain why his eviction is unjust and unfair.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.5. Discovery and Pre-hearing Proceedings

Extensive, prolonged, or time-consuming discovery and prehearing proceedings will not be permitted, except in the interests of justice and for good cause shown by the moving party. Discovery shall be informal, and reasonably provided on demand of a party, and it shall be completed no less than five (5) calendar days before the date of hearing. Requests for discovery shall be made no later than three (3) calendar days following the setting of a hearing date. The court may enter reasonable orders requiring discovery or protecting the rights of the parties upon reasonable notice.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.6.Evidence

Evidence in proceedings under this Ordinance shall be informal, and may include relevant and reliable hearsay evidence if such evidence is not the basis for a final decision. The books and records of the parties as to the payment or nonpayment of monies owed will be received in evidence and the files and business records of the landlord with respect to the agreement of the parties will be received in evidence upon their presentation to the Court; provided, however, that a tenant may examine the custodian of such records as to their contents. All hearings will be informal and designed to receive evidence in a fair and just manner. At the discretion of the Judge, evidence may be excluded if its value as proof is outweighed by the risk that its admission will create a substantial risk of undue prejudice; confuse the issues; or, mislead the jury, or unfairly surprise the opposing party. Upon request of a party, the Court may take judicial notice, of specific facts which are so certain as not to be subject to reasonable dispute.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.7. Burden of Proof

The burden of proof in all proceedings under this Ordinance shall be preponderance of the evidence showing an assertion or defense to be more likely true than not.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.8. Judgment

- (A) Within five (5) calendar days of the date of the hearing, the Court shall grant and enter judgment and the judgment shall grant all relief that the parties are entitled to as of the date of the judgment. The judgment may:
- (1) Order the immediate eviction of a tenant and delivery of the premises to the landlord;
 - (2) Grant actual damages as provided in the agreement of the parties or this Ordinance, including interest;
 - (3) Order the parties to carry out an obligation required by law;
 - (4) Establish a payment plan for the tenant;
 - (5) Order rent payments out of per capita payment or through garnishment;
 - (6) Establish a Power of Attorney in another person/agency to fulfill rights or obligations of either landlord or tenant;
 - (7) Remediate the action in part or in whole through appropriate recalculation of rent;
 - (8) Order the tenant to perform work for the landlord or the owner to pay off back rent due and/or damages;
 - (9) Order the payment of attorneys' fees and, where allowed by law or agreement, costs and expenses of litigation;
 - (10) Order the parties into negotiations as provided in Section §18-3-4 of this Ordinance; or
 - (11) Grant any relief provided in this Ordinance or allowed in law or equity.
- (B) If a tenant fails to appear in person or in writing on or before the date of appearance, the Court shall enter judgment on behalf of the plaintiff following a hearing to determine whether relief should be granted and the kind of relief that should be granted.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.9. Form of Judgment

The judgment shall state the relief granted by the Court to any party, but need not state findings of fact or conclusions of law in support of the judgment. The judgment may state brief reasons for it. If a trial is held, the judge should, whenever possible, render his decision immediately after both parties have rested their case and award costs and restitution as appropriate.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.10. Execution of Judgment

An eviction order may be executed by a duly authorized law enforcement officer or officer of the Court, appointed by the Court for such a purpose. To execute the order, the officer shall;

- (A) remove all the evicted persons from the dwelling and verbally order them not to re-enter;
- (B) provide a copy of the order of eviction to all adult tenants;
- (C) post copies of the order of eviction on the doors of the premises if there is not any adult tenant present at the time of execution; and
- (D) supervise the removal of the possessions of the evicted persons.

Any law enforcement officer shall, upon receipt of an order of the Court, execute the judgment or order made by it within five (5) calendar days of the date of the judgment or order and make a report to the Court on what was done to enforce it. Any law enforcement officer to whom a judgment or order is given for enforcement who fails, in the absence of good faith, or refuses to execute it shall be subject to the payment of reasonable damages, costs, and expenses to a party for failure to execute the judgment and/or suspension from employment. This Section shall also apply to any judgment on behalf of a tenant obtained under the general tribal civil procedure Ordinance and/or tribal small claims procedure Ordinance. All other portions of the judgment shall be subject to execution in the manner otherwise provided under tribal law.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.11. Stay of Execution

If judgment for possession of the dwelling unit enters in favor of the landlord, the tenant may apply for a stay of execution of the judgment or order if within five (5) days of the judgment being rendered, if the following is established:

- (A) Good and reasonable grounds affecting the well being of the party are stated; or
- (B) There would be no substantial prejudice or injury to the prevailing party during the period of the stay; or
- (C) Execution of the judgment could result in extreme hardship for the tenant(s); or

- (D) A bond is posted or monies are paid to the Court, to satisfy the judgment or payment for the reasonable use and occupancy of the premises during the period of time following the judgment. No stay may exceed three months in the aggregate. The clerk shall distribute such arrearages to the landlord in accordance to any order of the court.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.12. Appeals

Appeals under this Ordinance shall be handled according to the general tribal appellate provisions, with the exception that the party taking the appeal shall have only five (5) days from the entry of the order of judgment to file an appeal. All orders from the Court will remain in effect during the pendency of an appeal under this Ordinance unless otherwise ordered by the Court.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.13. Miscellaneous Complaints and Claims

Any miscellaneous complaint or claim including a complaint or claim by a tenant which does not fall within the procedures of this Ordinance may be made under the general tribal civil procedure Ordinance § 5-4-101 et sec. and 25 CFR Part 11 and/or tribal small claims procedure, if any.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.14. Notice to Leave the Premises

Any notice to leave a premises, shall be by written order of the court, and shall be delivered to the tenant in the following manner:

- (A) Delivery shall be made by:
- (1) A law enforcement officer of the Tribe or an agency of the United States Government, or
 - (2) Any person authorized by the Tribal Court.
- (B) Delivery will be effective when it is:
- (1) Personally delivered to a tenant with a copy delivered by mail, or
 - (2) Personally delivered to an adult living in the premises with a copy delivered by mail, or
 - (3) Personally delivered to an adult agent or employee of the tenant with a copy delivered by mail.

- (C) If the notice cannot be given by means of personal delivery, or tenant cannot be found, the notice may be delivered by means of:
- (1) Certified mail, return receipt requested, at the last known address of the landlord or tenant, or
 - (2) Securely taping a copy of the notice to the main entry door of the premises in such a manner that it is not likely to blow away, and by posting a copy of the notice in some public place near the premises, including a tribal office, public store, or other commonly frequented place and by sending a copy first class mail, postage prepaid, addressed to the tenant at the premises.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.15. Forcible Eviction

- (A) Where the Court orders an eviction, and the defendant or any other occupant of the premises refuses to vacate voluntarily by the effective date of that Order, the defendant or other occupants may be forcibly removed from the premises by a tribal law enforcement officer. At the hearing where the eviction is ordered, the Court shall inform the defendant that if he does not vacate the premises voluntarily by the effective date, he and the other occupants will be subject to forcible eviction, and their property will be subject to storage, sale and disposal as set forth in subsection (C) below.
- (B) Following eviction, the Court may allow the landlord, the Indian Housing Authority or the United States Government access to any property leased by either of them for purposes of preserving and securing it.
- (C) Following forcible eviction of the defendant and/or other occupants, the former occupant's personal property shall be stored by the owner of the premises for at least thirty (30) days, either on the premises or at another suitable location. In order to reclaim their property, the former occupants shall pay the reasonable costs of its removal and storage. If they do not pay such costs within thirty (30) days, the owner is authorized to sell the property in order to recover these costs. The landlord shall not condition return of the former occupant's personal property on the payment of any costs or fees other than those of removal and storage of those personal possessions. Should the landlord attempt to condition return of personal possessions on payment of any other cost or fee, the landlord shall forfeit his right to the costs of removal and storage. Upon request by the former occupants, the landlord shall provide them with pertinent information concerning the sale, including the time, date and location. Any proceeds from the sale in excess of the storage and removal costs shall be remitted to the former occupants. Nothing in this section shall be construed to prevent the former occupants from reclaiming property remaining after the sale if they can arrange to do in a manner satisfactory to the owner. If the abandoned property is of cultural, religious, or

ceremonial significance, the landlord shall have an affirmative duty to locate next of kin and/or contact the Tribe in order to return these items.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.16. No Self-Help Eviction

No landlord may compel a tenant to vacate any premises in a forceful fashion or way which causes a breach of the peace. All landlords shall give a notice to quit and obtain a court order as provided in this Ordinance.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.4.17. Security Deposits

- (A) Security Deposit Limits. A landlord may demand a security deposit of an amount equal to one-hundred dollars (\$100) or one month's periodic rent, whichever is greater, which may be in addition to the current month's rent. Additional security deposits may be allowed for special circumstances such as animals or pets or tenant history or prior damages.
- (B) Payment of Security Deposit at Termination of Tenancy. The person who is the landlord at the time a tenancy is terminated shall pay to the tenant or former tenant the amount of the security deposit that was deposited by the tenant with the person who was landlord at the time such security deposit, was deposited less the value of any damages which any person, who was a landlord of such premises at any time during the tenancy of such tenant, has suffered as a result such tenant's failure to comply with such tenant's obligations. Damages shall not include normal wear and tear.
- (C) Action to Reclaim Security Deposit. Any tenant may bring a civil action in Tribal Court to reclaim any part of his security deposit which may be due.

[History: Ordinance 2003-11, March 4, 2003.]

(SEAL)

(Signature)

(Date)

The Tribal Recording Clerk shall maintain the copy in the records of the recording system and shall return the original of the mortgage loan or other document to the person or entity that presented the same for recording.

- (C) The Tribal Recording clerk shall also maintain a log of each mortgage or other document recorded in which there shall be entered:
 - (1) The name(s) of the Borrower/Mortgagor of each mortgage, identified as such;
 - (2) The name(s) of the Lender/Mortgagee of each Mortgage, identified as such;
 - (3) The name(s) of the grantor(s), grantee(s), or other designation of each party named in any other documents filed or recorded;
 - (4) The date and time of the receipt;
 - (5) The filing number assigned by the Tribal Recording Clerk; and
 - (6) The name of the Tribal Recording Clerk or designee receiving the mortgage or document.
- (D) The certified copies of the mortgages and other documents and the log maintained by the Housing Authority shall be made available for public inspection and copying. Rules for copying shall be established and designated by the Housing Authority.
- (E) All mortgages will be recorded with the BIA in addition to any Tribal recording provisions.

[History: Ordinance 2003-11, March 4, 2003, Amended by TO No. 2014-08, October 18, 2014.]

Section 15.5.3. Foreclosure Procedures

- (A) A Borrower/Mortgagor shall be considered to be in default when he or she is thirty (30) days past due on his mortgage payment(s) or is in violation of any covenant under the mortgage for more than 30 days to the Lender/Mortgagee (i.e., the 31st day from the payment due date).
- (B) When a Borrower/Mortgagor becomes thirty days past due on his or her mortgage and before any foreclosure action or activity is initiated, the Lender/Mortgagee shall complete the following:
 - (1) Make a reasonable effort to arrange a face-to-face interview with the Borrower/Mortgagor. This shall include at least one trip to meet with the Borrower/Mortgagor at the mortgaged property.
 - (2) Lender/Mortgagee shall document that it has made at least one phone call to the Borrower/Mortgagor (or the nearest phone as designated by the Borrower/Mortgagor, able to receive and relay messages to the Borrower/Mortgagor) for the purpose of trying to arrange a face-to-face interview.
- (C) Lender/Mortgagee may appoint an agent to perform the services or arranging and conducting the face-to-face interview specified in this action.
- (D) Before the Borrower/Mortgagor past due on three installment payments and at least ten (10) days before initiating a foreclosure action in Tribal Court, the Lender shall advise the Borrower/Mortgagor in writing by mail or by posting prominently on the unit, with a copy provided to the Tribe, as follows:
 - (1) Advise the Borrower/Mortgagor that information regarding the loan and default/delinquency will be given to credit bureaus.
 - (2) Advise the Borrower/Mortgagor of homeownership counseling opportunities/programs available through the Lender or otherwise.
 - (3) Advise the Borrower/Mortgagor of other available assistance regarding the mortgage/default.
 - (4) In addition to the preceding notification requirements, the Lender/Mortgagee shall complete the following additional notice requirements:
 - (i) notify the Borrower/Mortgagor that if the Leasehold Mortgage remains past due on three installment payments, the Lender/Mortgagee may ask the applicable governmental agency to accept assignment of the Leasehold Mortgage if this is a requirement of the governmental program;

- (ii) notify the Borrower/Mortgagor of the qualifications for forbearance relief from the Lender/Mortgagee, if any, and that forbearance relief may be available from the government if the mortgage is assigned; and
 - (iii) provide the Borrower/Mortgagor with names and address of government officials to whom further communications may be addressed, if any.
- (E) If a Borrower/Mortgagor is past due on three or more installment payments and the Lender\Mortgagee has complied with the procedures set forth in the first part of this Section, the Lender\Mortgagee may commence a foreclosure proceeding in the Tribal Court by filing a verified complaint as set forth in §18-5-4 of this Ordinance.

[History: Ordinance 2003-11, March 4, 2003.; Amended by TO No. 2014-08, October 18, 2014]

Section 18.5.4. Foreclosure Complaint and Summons

- (A) The verified complaint in a mortgage foreclosure proceeding shall contain the following:
 - (1) The name of the Borrower\Mortgagor and each person or entity claiming through the Borrower\Mortgagor subsequent to the recording of the mortgage, including each Subordinate Lienholder (except the Tribe with respect to a claim for a tribal leasehold), as a defendant;
 - (2) A description of the property subject to the Mortgage;
 - (3) A concise statement of the facts concerning the execution of the mortgage loan or in the case of a Leasehold Mortgage the lease; the facts concerning the recording of the Mortgage or the Leasehold Mortgage; the facts concerning the alleged default(s) of the Borrower/Mortgagor; and such other facts as may be necessary to constitute a cause of action;
 - (4) True and correct copies of each promissory note, mortgage, deed of trust or other recorded real property security instrument (each a “security instrument”) and any other documents relating to the property and if a Leasehold Mortgage, a copy of the Lease and any assignment of any of these documents; and
 - (5) Any applicable allegations concerning relevant requirements and conditions prescribed in:

- (i.) federal statutes and regulations
- (ii.) tribal codes, ordinances and regulations; and/or
- (iii.) provisions of the promissory note, security instrument and, if a Leasehold Mortgage, the lease.

- (B) The complaint shall be provided to the Tribal Court Clerk along with a summons specifying a date and time of appearance for the Defendant(s).

[History: Ordinance 2003-11, March 4, 2003; Amended by TO No. 2014-08, October 18, 2014.]

Section 18.5.5. Service of Process and Procedures

Any foreclosure complaint must be in writing, and must be delivered to the Borrower/Mortgagor in the following manner:

- (A) Delivery must be made by an adult person and is effective when it is:
 - (1) Personally delivered to a Borrower/Mortgagor with a copy sent by mail, or
 - (2) Personally delivered to an adult living in the property with a copy sent by mail, or
 - (3) Personally delivered to an adult agent or employee of the Borrower/Mortgagor with a copy sent by mail.
- (B) If the notice cannot be given by means of personal delivery, or the Borrower/Mortgagor cannot be found, the notice may be delivered by means of:
 - (1) Certified mail, return receipt requested, at the last known address of the Borrower/Mortgagor, or
 - (2) Securely taping a copy of the notice to the main entry door of the property in such a manner that it is not likely to blow away, and by posting a copy of the notice in some public place near the premises, including a tribal office, public store, or other commonly –frequented place and by sending a copy first class mail, postage prepaid, addressed to the Borrower/Mortgagor at the premises.
- (A) (C) The person giving notice must keep a copy of the notice and proof of service in accordance with this section, by affidavit or other manner recognized by law.

[History: Ordinance 2003-11, March 4, 2003; Amended by Ordinance TO No. 2014-08, October 18, 2014.]

Section 18.5.6. Cure of Default

Prior to the entry of a judgment of foreclosure, any Borrower/Mortgagor or a Subordinate Lienholder may cure the default(s) under the Mortgage by making a full payment of the delinquency to the Lender/Mortgagee and all reasonable legal and Court costs incurred in foreclosing on the property. Any Subordinate Lienholder who has cured a default shall thereafter have included in its lien the amount of all payments made by such Subordinate Lienholder to cure the default(s), plus interest on such amounts at the rate stated in the note for the mortgage. There shall be no right of redemption in any Leasehold Mortgage Foreclosure proceeding.

[History: Ordinance 2003-11, March 4, 2003; Amended by Ordinance TO No. 2014-08, October 18, 2014..]

Section 18.5.7. Judgment and Remedy

- (A) This matter shall be heard and decided by the Tribal Court in a prompt and reasonable time period not to exceed sixty (60) days from the date of service of the Complaint on the Borrower\Mortgagor. If the alleged default has not been cured at the time of trial and the Tribal Court shall enter judgment:
- (1) Foreclosing the interest of the Borrower\Mortgagor and each other defendant, including Subordinate Lienholder, in the mortgage property and
 - (2) Granting title to the property to the Lender/Mortgagee or the Lender's Designated Assignee; in the case of a Leasehold Mortgage, the lease and the leasehold Estate will be assigned to the lender/Mortgagee or the Lender's Designated Assignee, subject to the following provisions.
 - (i) The lender shall give the Tribe the right of first refusal on an acceptable offer to purchase the Lease and the Lessee's leasehold interest in the property described in the lease which is subsequently obtained by the Lender or Lender's Designated Assignee.
 - (ii) The Lender or Lender's Designated Assignee may only transfer, sell or assign the Lease and Lessee's leasehold interest in the property described in the Lease to a Tribal member, the Tribe or the Housing Authority of the Seminole Nation.
 - (iii) The Borrower/Mortgagee has the right to convey the leasehold interest to the Secretary of HUD without providing the right of first refusal to the Tribe for Section 248.
 - (iv) The Borrower/Mortgagee has the right to convey the leasehold interest to the Secretary of the United States Department of Veteran

Affairs (“VA”) without providing the right of first refusal to the Tribe for VA Native American Direct Loans.

[History: Ordinance 2003-11, March 4, 2003; Amended by Ordinance No. 2014-08, October 18, 2014; Amended by Ordinance No. 2015-05, June 6, 2015.]

Section 18.5.8. Foreclosure Evictions

Foreclosure evictions shall be handled according to the general eviction process set below.

(A) Jurisdiction. The provisions of this Section H shall apply to all persons and property subject to the governing authority of the Tribe as established by the Tribal Constitution, Tribal Code, or applicable federal law.

(B) Unlawful Detainer. A Lessee, Sublessee, or other occupant of a Leasehold Estate subject to a Leasehold Mortgage shall be guilty of unlawful detainer of such a person shall continue in occupancy of such Leasehold Estate without the requirement of any notice by the lessor, after such person’s Leasehold Estate has been foreclosed in a Leasehold Mortgage Foreclosure proceeding in Tribal Court;

(C) Complaint and Summons. The lender or Federal Agency (which made, guaranteed or insured the mortgage loan) as appropriate, shall commence an action for unlawful detainer by filing the Tribal Court, in writing, the following documents:

- (1) A complaint, signed by the lender or Federal Agency, or an agent or attorney on their behalf;
 - i. Citing facts alleging jurisdiction of the Tribal Court;
 - ii. Naming as defendants the mortgagors and any other lienholders), of which the complainant has record notice (except the Tribe with respect to a claim for a Tribal tax on the Leasehold Estate subject to the Leasehold Mortgage);
 - iii. Describing the Leasehold Estate subject to the Leasehold Mortgage;
 - iv. Stating the facts concerning (1) the execution of the lease and the Leasehold Mortgage; (2) the record of the Leasehold Mortgage; and (3) the facts upon which he or she seeks to recover;
 - v. Stating any claim for damages or compensation due from the persons to be evicted; and
 - vi. Otherwise satisfying the requirements of the Tribal Court.

- (2) A copy of the summons, issued in accordance with established Tribal Court rules and procedures, requiring the defendants to file a response to the complaint by the date specified in the summons. The deadline specified in the summons for filing a response shall be no less than 6 days nor more than 30 days from the date of service of the summons and complaint. The summons shall notify the defendants that judgment will be taken against them in accordance with the terms of the complaint unless they file a response with the court by the date specified in the summons.

(D) Service of Summons and Complaint. A copy of the summons and complaint shall be served upon the defendants in the manner provided by the Tribal Court rules for service of process in civil matters. In the absence of such Tribal Court rules, the summons and complaint shall be served by one of the following two methods.

(E) Procedures for Service of Notice. Notices required or authorized in the immediately preceding section shall be given in writing either by:

- (1) delivering a copy personally to the Borrower/mortgagor or to any other occupant under color of law, or to any adult residing on the leasehold Estate and, if applicable to any Sublessee; or
- (2) posting said notice in a conspicuous place near the entrance to said Leasehold Estate, and sending an additional copy to the Lessee or to any other occupant under color of law, and, if applicable to the Sublessee, by certified mail, return receipt requested, properly addressed, postage paid.

Proof of service may be made by affidavit of any adult person stating that he has complied with the requirements of one of the above methods of service.

(F) Power of the Tribal Court. The Tribal Court shall enter an order of Repossession if:

- (1) Notice of suit is given by service of summons and complaint in accordance with the procedures provided herein; and
- (2) The Tribal Court shall find during pre-trial proceedings or at trial that the Lessee, Sublessee, or other occupant under color of law of the Leasehold Estate subject to the Leasehold Mortgage is guilty of an act of unlawful detainer.

Upon Issuance of an Order of Repossession, the Tribal Court shall have the authority to enter a judgment against the defendants for the following, as appropriate: (i) back rent, unpaid utilities, and any charges due the Tribe, Housing Authority of the Seminole Nation, other Public Housing Authority or Sublessor under and sublease or other written agreement (except for a Leasehold Mortgage); (ii) any and all amounts secured by the Leasehold Mortgage that are due the lender (or Federal Agency); and

(iii) damages to the property caused by the defendants, other than ordinary wear and tear. The Tribal Court shall have the authority to award to the prevailing party its costs and reasonable attorney's fees in bringing suit.

(G) Enforcement. Upon issuance of an Order of Repossession by the Tribal Court, Tribal law enforcement officers shall help plaintiffs enforce same by evicting the defendants and their property from the unlawfully occupied Leasehold Estate. In all cases involving the lender or Federal Agency, the order of Repossession shall be enforced no later than 45 days after a pre-trial proceeding or trial in which the Tribal Court finds against defendants, subject to Section 18.5.8(H), below, and provided, that no party exercised the right to cure a default or right of first refusal as described in Sections 18.5.6 and 18.5.7, above.

(H) Continuances in Cases Involving the Lender or Federal Agency Which Originally Made, Insured or Guaranteed the Mortgage Loan. Except by agreement of all parties, there shall be no continuances in cases involving the lender or Federal Agency that will interfere with the requirement that the Order of Repossession be enforced not later than 45 days after a pretrial proceeding or trial in which the Tribal Court finds against defendants, subject to the sound discretion of the Court.

[History: Ordinance 2003-11, March 4, 2003; Amended by Ordinance TO No. 2014-08, October 18, 2014.]

Section 18.5.9. No Merger of Estates

There shall be no merger of estates by reason of the execution of a Lease or a Leasehold Mortgage or the assignment or assumption of the same, including an assignment adjudged by the Tribal court, or by operation of law, except as such merger may arise upon satisfaction of the Leasehold Mortgage.

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.5.10. Certified Mailing to Tribe

Any foreclosure proceedings on a Lease or Leasehold Mortgage where the Tribe is not named as a defendant, a copy of the summons and complaint shall be mailed to the Tribe by certified mail, return receipt requested, within five (5) days after the issuance of the summons. If the Lessor is not the Tribe, this notice will also be mailed to the Lessor at the same time the notice is mailed to the Tribe. If the location of the Lessor(s) cannot be ascertained after reasonable inquiry, a copy of the summons and complaint shall be mailed to the Lessor(s) in care of the superintendent of the applicable agency of the Bureau of Indian Affairs.

[History: Ordinance 2003-11, March 4, 2003; Amended by Ordinance TO No. 2014-08, October 18, 2014.]

Section 18.5.11. Intervention

The Tribe or any Lessor may petition the Tribal Court to intervene in any Lease or Leasehold Mortgage foreclosure proceeding under this Chapter. Neither the filing of a petition for intervention by the Tribe, nor the granting of such a petition by the Tribal Court shall operate as a waiver of the sovereign immunity of the Tribe, except as may be expressly authorized by the Tribe.

[History: Ordinance 2003-11, March 4, 2003; Amended by Ordinance TO No. 2014-08, October 18, 2014.]

Section 18.5.12. Appeals.

Appeals under this Chapter shall be handled in accordance with the general tribal appellate provisions.

[History: Ordinance 2003-11, March 4, 2003; Amended by Ordinance TO No. 2014-08, October 18, 2014.]

Section 18.5.13. Conflict with other laws

This Chapter shall preempt any other chapter, section, law, code, ordinance, and/or resolution of the Tribe that conflicts with this Chapter.

[History: Ordinance TO No. 2014-08, October 18, 2014.]

**CHAPTER SIX
MISCELLANEOUS PROVISIONS**

Section 18.6.1. Effective Date

This Ordinance shall take effect on (Month) (Date), (Year).

[History: Ordinance 2003-11, March 4, 2003.]

Section 18.6.2. Retroactive Effect

This Ordinance shall apply to all rental agreements subject to the provisions of the Ordinance, no matter when entered.

[History: Ordinance 2003-11, March 4, 2003.]

**CHAPTER SEVEN
[RESERVED]**

Section 18.7.1., et seq. _____ [Reserved].

CHAPTER EIGHT
[RESERVED]

Section 18.8.1., et seq. [Reserved].

CHAPTER NINE

GROUP DWELLING COVERAGE BENEFIT PROGRAM AND REGULATION ACT

Section 901. Short Title

This Act may be cited as the Seminole Nation Group Dwelling Coverage Benefit Program and Regulation Act (“Act”).

[History: Ordinance 2009-12, September 5, 2009.]

Section 902. Findings

The Seminole Nation General Council finds that:

- A. Access to decent, safe and affordable housing is a key component in furthering the health and welfare of its citizens;
- B. The Nation has created a variety of housing programs to achieve that objective, and participates in a number of federal programs that have the same objective;
- C. The Nation’s housing objectives cannot be achieved without the availability of adequate and affordable insurance coverage for housing occupied by its citizens;
- D. Adequate insurance coverage is generally prohibitively expensive for many citizens of the Nation;
- E. The purchase of dwelling coverage on a group basis or the creation of a self-insured housing risk pool administered by the Nation enables the Nation to make dwelling coverage available to all of its citizens within the Nation’s service area and is the only practical way of fulfilling the need for adequate and affordable dwelling coverage; and
- F. It is necessary to establish a regulatory scheme that will assure the operation of the Group Dwelling Coverage Benefit Program for the benefit of its citizens.

[History: Ordinance 2009-12, September 5, 2009.]

Section 903. Purpose; Scope

The purposes of this Act are to provide for the citizens of the Nation adequate and affordable group dwelling coverage and to regulate the providers of group dwelling coverage.

[History: Ordinance 2009-12, September 5, 2009.]

Section 904. Definitions

Whenever used or referred to in this Act, the term:

- A. “Group dwelling coverage” means property and liability coverage made available to tribal members covering their dwellings and personal contents under a group policy between the tribal member, the Housing Authority and Provider.
- B. “Provider” means a person or entity, including the Seminole Nation, which provides group dwelling coverage.
- C. “Nation” means the Seminole Nation of Oklahoma.
- D. “Nation’s service area” means the Nation’s formula area as defined by 24 C.F.R. § 100.302, Indian country as defined by 28 U.S.C. § 1151, and/or any other geographical area within which the Nation provides housing-related services to citizens of the Nation.
- E. “Citizens” means enrolled citizens of the Seminole Nation of Oklahoma.
- E. “Housing Authority” means the Housing Authority of the Seminole Nation of Oklahoma.
- F. “General Council” means the Seminole Nation General Council of the Seminole Nation of Oklahoma.

[History: Ordinance 2009-12, September 5, 2009.]

Section 905. Group Dwelling Coverage Benefit Authorization

The Housing Authority is hereby authorized to provide directly or through a Provider group dwelling coverage for citizens within the Nation’s service area, to enter into agreements with a Provider and to take such actions as may be necessary to make group dwelling coverage available to citizens within the Nation’s service area.

[History: Ordinance 2009-12, September 5, 2009.]

Section 906. Eligibility

To participate in the Group Dwelling Coverage Benefit Program, the participant must be a citizen of the Nation and the dwelling to be covered must be located within the Nation's service area. The Housing Authority may establish other reasonable requirements for participation in the group dwelling protection benefit program.

[History: Ordinance 2009-12, September 5, 2009.]

Section 907. Payment of Contributions and Premiums

- A. The Housing Authority or the Nation or both may pay all or part of the contributions or premiums for the Group Dwelling Coverage Benefit Program for citizens of the Nation, provided that such amounts shall be subject to repayment by the policyholders.
- B. All contributions or premiums paid by citizens of the Nation for group dwelling coverage shall be collected and deposited by the Housing Authority to the credit of the citizens of the Nation participating in the program.

[History: Ordinance 2009-12, September 5, 2009.]

Section 908. Annual Report

The Housing Authority shall, within sixty (60) days after the end of each calendar year, forward to the Provider and a designated representative of the Nation an evaluation of the Group Dwelling Coverage Benefit Program's effectiveness in meeting the objectives of this Act and a description of any instances of non-compliance with the provisions of this Act.

[History: Ordinance 2009-12, September 5, 2009.]

Section 909. Licensing Requirement

Subsequent to the effective date of this Act, no person or entity shall provide group dwelling coverage to the Housing Authority or the Nation for the benefit of citizens of the Nation unless permitted to do so by the terms of a license issued by the Seminole Nation of Oklahoma, provided that this Section shall not be construed to impair the validity or effectiveness of any existing insurance plan, benefit or coverage for which the Housing Authority is a beneficiary.

[History: Ordinance 2009-12, September 5, 2009.]

Section 910. Application for License

A. The Nation may require financial data and other relevant information from a Provider that must accompany an application to provide group dwelling coverage. The Nation or Housing Authority may also require additional information about the competency and fitness of all persons directly or indirectly associated with the Provider, the financial condition of the Provider and the Provider's ability to provide group dwelling coverage in a manner consistent with the interests and needs of the Nation and its Citizens.

B. The Nation may require an application fee that shall not exceed one hundred dollars (\$100.00) plus the actual costs of processing the application.

[History: Ordinance 2009-12, September 5, 2009.]

Section 911. Filing of Policy Forms and Related Documents

A copy of all agreements, policies and forms relating to group dwelling coverage shall be filed with the Nation and the Housing Authority not less than thirty (30) days before implementation. The copy on file with the Nation or Housing Authority shall be open to inspection by all citizens.

[History: Ordinance 2009-12, September 5, 2009.]

Section 912. Filing of Financial Statements and Activities Report

A. No later than June 30th for the year ended the preceding December 31st, Provider shall file the following information with the Nation:

- (1) An annual audit by an independent certified public accountant;
- (2) An opinion of a qualified actuary relating to its loss and adjustment expense reserve; and
- (3) An activities summary setting forth the number of dwellings covered, premiums collected, claims received, claims paid and a description of claims disputes resolved and outstanding.

B. The annual audited financial statement shall be prepared in accordance with generally accepted accounting practices and shall include:

- (1) Report of an independent certified public accountant;
- (2) Balance sheet reporting assets, liabilities, capital and surplus;
- (3) Statement of operations;

- (4) Statement of cash flows;
- (5) Statement of changes in capital and surplus; and
- (6) Notes to financial statements.

[History: Ordinance 2009-12, September 5, 2009.]

Section 913. Misrepresentations Prohibited

Provider shall not, directly or through agents, make any misrepresentations with respect to the benefits, advantages, conditions and terms of group dwelling coverage or in connection with the settlement of claims.

[History: Ordinance 2009-12, September 5, 2009.]

Section 914. Claims Handling

Provider shall file a copy of its proposed procedures for handling claims with the Housing Authority. Such procedures shall not be effective until approved by majority vote of the Board of Commissioners of the Housing Authority and shall include specific timeframes for responding to, investigating and settling claims as well as an appeal mechanism for denied claims. Any proposed amendments to the claims handling procedures shall be filed with the Housing Authority and shall not be effective until approved by majority vote of the Board of Commissioners of the Housing Authority. Provider shall process and settle all claims in accordance with the approved claims handling procedures on file with the Housing Authority. Copies of all approved procedures and amendments thereto shall be provided to the Secretary of the General Council not later than thirty (30) days after their effective date.

[History: Ordinance 2009-12, September 5, 2009.]

Section 915. Complaints

Provider shall maintain a log of all complaints, both verbal and written, received from citizens of the Nation and shall promptly respond to all such complaints. The log shall indicate the response made by the Provider and any action taken with respect to the complaint. Copies of the complaint log shall be sent to the Housing Authority within thirty (30) days after the end of each quarter.

[History: Ordinance 2009-12, September 5, 2009.]

Section 916. Penalties

A Provider who violates any provision of this Act shall be fined not more than one thousand dollars (\$1,000.00) per occurrence. The Housing Authority is authorized to impose monetary penalties and to seek injunctive relief in connection with any such violation. If a Provider commits repeated violations of the provisions of this Act that indicate a general practice of engaging in such conduct, the Housing Authority may, after notice and hearing and upon issuance of an order, revoke its license.

[History: Ordinance 2009-12, September 5, 2009.]

Section 917. Regulations

The Housing Authority shall promulgate such regulations as are required for the proper implementation of the Act. No regulation shall be of any force or effect until and unless a certified copy signed by the Housing Authority is filed for recording in the office of the Secretary of the General Council and the Court of Indian Offenses for the Seminole Nation (“CFR Court”) or such Tribal Court as the Nation may hereafter establish.

[History: Ordinance 2009-12, September 5, 2009.]

Section 918. Applicable Law; Duty of Good Faith

The Seminole Nation Code shall be applicable to group dwelling coverage and the activities of the Provider. Provider shall have a duty to operate in good faith in the processing and disposition of insurance claims.

[History: Ordinance 2009-12, September 5, 2009.]

Section 919. Service of Process

Provider is deemed to have designated the Housing Authority as its agent for the service of process. Provider shall provide the Housing Authority with the name and address of a designated contact to whom notices or other communications from the Housing Authority may be forwarded.

[History: Ordinance 2009-12, September 5, 2009.]

Section 920. Consent to Jurisdiction

Provider is deemed to have consented to the civil jurisdiction of the CFR Court or such Tribal Court as the Nation may hereafter establish with respect to all activities conducted pursuant to this Act.

[History: Ordinance 2009-12, September 5, 2009.]

Section 921. Judicial Review

Any decision or action of the Housing Authority imposing a monetary penalty or revoking a license shall be subject to judicial review in the CFR Court or such Tribal Court as the Nation may hereafter establish.

[History: Ordinance 2009-12, September 5, 2009.]

Section 922. Sovereign Immunity

This Act shall not be construed as a waiver of the Nation's governmental powers and immunities, including but not limited to its sovereign immunity from suit.

[History: Ordinance 2009-12, September 5, 2009.]

Section 923. Severability

If any provision of this Act or application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

[History: Ordinance 2009-12, September 5, 2009.]

Section 924. Effective Date

This Act shall become effective thirty (30) days after proper approval and execution in accordance with the requirements of the Seminole Nation.

[History: Ordinance 2009-12, September 5, 2009.]

COMMENTARY

Chapter 1

This Chapter is intended to set forth General Provisions regarding the applicability, jurisdiction and interpretation of this Ordinance as well as certain definitions of key terms used herein. This Ordinance was drafted to meet the unique challenges facing the Seminole Nation as we attempt to meet the needs of our people for housing and development of communities. This Ordinance provides for jurisdiction over all persons or entities who have any dealings regarding housing matters within the jurisdiction of the tribe. This includes any contractors providing services to the Housing Authority. This Ordinance is meant to simplify the landlord and tenant responsibilities and provide for preservation of the peace and formal procedures for eviction when necessary. Further, this Ordinance provides for unique financing opportunities and establishes procedures for obtaining federal funding and loan guarantees for housing.

Chapter 2

This Chapter provides specific provisions concerning rental agreements. It first established that these are the minimal rights and responsibilities for landlords and tenants. It provides a method by which a landlord may establish rules and regulations concerning use and occupancy of dwelling units. Further, this Chapter provides specific landlord and tenant responsibilities. This Chapter provides remedies for both landlords and tenants in the event of breach and options regarding abandoned dwelling units and return of property of historical, cultural or religious significance that may be left in such abandoned unit.

Chapter 3

This Chapter provides specific grounds for eviction. This Chapter is very important in that it also sets forth the specific procedures for notifying a tenant of the termination of their rental agreement including the general form of the notice and the timing thereof. This Chapter also includes procedures regarding pre-eviction options that include negotiated settlement and stay of judicial proceedings.

Chapter 4

This Chapter provides for the procedures for summons and complaint under this Ordinance. It provides the Housing Authority specific guidance on the procedure for judicial eviction. This Chapter sets forth the defenses that may be proposed as well as the discovery and evidence procedures that will be utilized. The Ordinance provides a measure to minimize pre-hearing discovery and pre-hearing procedures. Finally this Chapter provides for the method of stays of execution and appeal.

Chapter 5

This Chapter provides for Mortgage and foreclosures. It is designed to meet not only the needs of the Section 184 Loan Guarantee Program but also other governmental loan guarantee programs, including Housing and Urban Development (HUD), Veterans Affairs

(VA) and Agriculture (USDA), as well as private mortgages. It includes detailed foreclosure procedures and protection for both the borrower and mortgagor. This Chapter specifically does not allow a right of redemption after foreclosure.

Chapter 6

This Chapter provides for the effective date of this Ordinance as well as makes the Ordinance retroactive in application.