

**HO-CHUNK NATION CODE (HCC)
TITLE 8 – HOUSING, REAL ESTATE AND PROPERTY CODE
SECTION 11 – RESIDENTIAL LEASING CODE**

ENACTED BY LEGISLATURE: DECEMBER 17, 2013

LAST AMENDED AND RESTATED: MAY 17, 2022

CITE AS: 8 HCC § 11

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**CHAPTER I
INTRODUCTION**

1. Authority

a. Article V, Section 2(a) of the Ho-Chunk Nation Constitution (“Constitution”) grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

b. Article V, Section 2(l) of the Constitution grants the Legislature the power to enact laws to manage, lease, permit, or otherwise deal with the Nation's lands, interests in lands or other assets.

c. Article V, Section 2(p) of the Constitution grants the Legislature the power to create and regulate a system of property including but not limited to use, title, deed, estate, inheritance, transfer, conveyance, and devise.

d. Article V, Section 2(r) of the Constitution grants the Legislature the power to protect and foster Ho-Chunk religious freedom, culture, language, and traditions.

e. Article V, Section 2(u) of the Constitution grants the Legislature the power to enact laws to regulate domestic relations of persons within the jurisdiction of the Nation.

2. Purpose

The purpose of this Code is to enhance accountability and ensure that real property held in trust by United States for the Ho-Chunk Nation ("Nation") and leased by the Nation to its members is used to provide minimal financial risk and clarify the legal responsibility of the Nation.

The Nation has a critical role and responsibility to provide the Nation's communities and members with a sustainable, compatible method of leasing the Nation's lands that clarifies the expectations and responsibilities between the lessor and lessee. The Nation recognizes that the provision of land and buildings plays a vital role in the successful functional use of the Nation's lands in all communities.

The Code shall be liberally interpreted and construed to implement the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 ("HEARTH Act"), amended 25 U.S.C. § 415, PL 112-151 and 126 Stat. 1150., by establishing a process Lease Agreement with the Nation will not require the approval of the Secretary of the Interior ("Secretary") if the Lease Agreement is executed under this Code approved by the Secretary. Nothing in this Code is intended to expand the authority or responsibility of the Secretary beyond that provided for under applicable federal statutes or regulations.

3. Intent

a. The Code covers land held in trust by the United States for the Nation that are leased by the Nation for residential purposes on trust lands. The Nation's real property, consisting of land, buildings, air rights, mineral rights, cultural rights, and all other constitutional, legal and Code rights, may only be used for a purpose that benefits the Nation and the Nation's members.

- b. Lease Agreements may relate to land.
- c. The Nation will not, under any circumstances, permit the unrestricted use of its property by individuals or groups. Use of the Nation's properties requires a written lease, license, or contract.
- d. The lessee will agree to abide by all laws of the Nation.

4. Applicability

a. Except as excluded under Section 4(b) below, applicable federal statutes and regulations this Code shall apply to:

1. All future Leases providing for the occupation or use of any of the Nation's land for residential use.

b. This Code shall not apply to:

- 1. Agricultural leases;
- 2. Commercial or business leases;
- 3. Fee simple leases
- 4. To any lease of fractional interests of Tribal Trust Land or
- 5. To any lease of individually owned Indian allotted land

5. Controlling Law

a. To the extent that this Code conflicts with any applicable federal statutes or regulations the federal statute or regulation shall control.

b. To the extent that any Lease to which this Code applies conflicts with this Code, this Code shall control.

6. Amendment

This Code may be amended by majority vote of the Ho-Chunk Nation Legislature ("Legislature") provided that no major substantive amendment hereto shall be effective unless approved by the Secretary in accordance with applicable federal laws and regulations.

7. Effective Date

This Code shall become effect as the Nation's law, for all purposes, on the date of enactment by Legislature and approval by the Secretary.

8. Severability

If any provision or provisions of this Code shall in the future be declared invalid by the Judiciary, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

9. Definitions

For the purpose of this Code the below terms are defined:

a. Assignment. An agreement between a Lessee and an Assignee, whereby the Assignee acquires all or some of the Lessee's rights, and assumes all or some of the Lessee's obligations, under a lease.

b. Best Interest of the Nation. An outcome most favorable based on a balancing of interests undertaken in order to attain the highest economic income, increase in economic development, preserve and enhance the value of the Nation's trust land, increase employment and preserve the sovereignty of the Nation

c. BIA. The Secretary of the Interior or the Bureau of Indian Affairs within the Department of the Interior.

d. Code. A guiding or governing principle that mandates or constrains actions, has Nation-wide application, will change infrequently and sets a course for the foreseeable future, helps to ensure compliance, enhances the Nation's mission and reduces liability risk, and is approved by the authoritative decision-makers of the Nation.

e. Constructive notice means notice:

1. Posted at the tribal government office, tribal community building, and/or the United States Post Office; and

2. Published in the local newspaper(s) nearest to the affected land and/or announced on the local radio station(s).

f. Court of competent jurisdiction. A Federal, or Tribal, court with jurisdiction.

g. Department of Administration. The Nation's Department of Administration.

h. Department of Housing. The Nation's Department of Housing.

- i. Executive Director of the Administration Department. The Executive Director of the Nation's Administration Department.
- j. Fair Market Rental. The amount of rental income that a leased tract of the Nation's land would most probably command in an open and competitive market, or as determined by competitive bidding.
- k. Housing Unit. All or any portion of any house, home, building, or other structure used as a residence by any person that is located on the Nation's land subject to a Lease, to which this Code applies. Each Housing Unit type is of "Single-family residence" as defined in 25 C.F.R. Section 162.103.
- l. Interested Party. An Indian or non-Indian individual or corporation, or tribal or non-tribal government whose interests could be materially affected by a decision of the Nation to lease a Housing Unit on the Nation's land.
- m. Land Development Team. The Nation's Land Development Team.
- n. Life Estate. An interest in property held only for a duration of a designated person(s)' life. A life estate may be created by a conveyance document or by operation of Ho-Chunk and/or federal law.
- o. Lease. A written contract between the Nation and a Lessee, whereby the Lessee is granted a right to possess the Nation's land, for a specified purpose and duration. The Lessee's right to possess will limit the Nation's right to possess the leased premises only to the extent provided in the lease.
- p. Leasing Office. The Nation's Leasing Office, under the Nation's Realty Division.
- q. Lessee. A person or entity who has acquired a right to possess the Nation's land by executing a Lease.
- r. Leasehold Estate. The possessory interest in the Nation's land established pursuant to a Lease between a Lessor and a Lessee.
- s. Leasehold Mortgage. A mortgage, deed of trust, or other instrument that pledges a Lessee's leasehold interest as security for a debt or other obligation owed by the Lessee to a lender or other mortgagee.
- t. Legislature. The Ho-Chunk Nation Legislature.
- u. Lessor. The Ho-Chunk Nation.
- v. LTRO. The Land Titles and Records Office of the Bureau of Indian Affairs.
- w. Mortgage. A lien on a Leasehold Estate given to secure advances on a loan to

purchase, construct, refinance, or renovate a Housing Unit or improvement, 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.

x. Mortgagee. Any person, entity, or government agency which lends under a Leasehold Mortgage, and includes any assignee, or assign thereof.

y. Mortgagor. The Nation or any person or entity who has executed a Leasehold Mortgage, including assign thereof.

z. Nation's and. Any tract, in which the surface estate is owned the Nation in trust or restricted status, and includes such lands reserved for BIA administrative purposes. The term also includes the surface estate of lands held by the United States in trust for an Indian corporation chartered under Section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. § 477).

aa. NEPA. The National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.*

bb. Permanent Improvements. Buildings, other structures, and associated infrastructure attached to the Nation's land.

cc. Public for Purposes of Environmental Review. Include any person or entity who will be substantially affected by the lease or the lease activity.

dd. Real Property. The Nation's property that is land or land and building.

ee. Register of Deeds Office. The Nation's Register of Deeds Office.

ff. Residential Lot Size. One acre or less when sewer and water are available. Two acre minimum if well and septic need to be installed pursuant to Resolution 11-02-04D

gg. Secretary. The Secretary of the Interior.

hh. Significant Effect on the Environment. A substantial, or potentially substantial, adverse change on the environment such as to the land, air, water, minerals, flora, fauna, ambient noise, cultural areas and objects of historical cultural or aesthetic significance..

ii. Sublease. A written agreement by which the Lessee grants to an individual or entity a right to possession no greater than that held by the Lessee under the lease.\

jj. Squatter Rights. The legal allowance to use the property of another in the absence of an attempt by the owner to force eviction.

kk. Trespass. Any unauthorized occupancy, use of, or action on the Nation's land.

ll. Trust or restricted land. Any tract, or interest therein, held in trust or restricted status.

ii. Trust or restricted status means:

1. That the United States holds title to the tract for the benefit of the Nation; or
2. That the Nation holds title to the tract, but can alienate or encumber it only with the approval of the United States because of limitations in the conveyance instrument under Federal law or limitations in Federal law

mm. Violation. A failure to take an action, including payment of compensation, when required by the lease, or to otherwise not comply with a term of the lease. This definition applies for purposes of our enforcement of a lease under this part no matter how "violation" or "default" is defined in the lease.

CHAPTER II
APPROVAL OF LEASE, REQUIREMENTS, PROCESS, PAYMENT,
EXTENSIONS, TERMINATION, FORFEITURE,
CONTINUATION, AND RECORDING

10. Approval of Leases

- a. All leases shall be subject to the approval of the Department of Administration which shall provide monthly reporting of data regarding leases to the Development Committee.
- b. All leases shall be signed by the Vice-President of the Ho-Chunk Nation.
- c. After the Secretary approves this Code, all leases which are approved and executed under this Section shall be effective without federal this Code, unless the Secretary rescinds approval of this Code and reassumes responsibility for such approval.
- d. Any lease which is approved and executed under this Section shall refer to this Code as authority for its execution on behalf of the Nation.

11. Lease Requirements

- a. All Leases shall be in writing, and at a minimum, shall:
 1. Describe the tract or parcel of the Nation's land that is being leased, or on which the residential unit being leased is located with reference to a public or private survey plan, if available, in terms sufficient for LTRO to identify the leased premises for the purposes of recording;

2. State the purpose of the Lease and authorized uses of the premises;
3. Identify the parties to the Lease;
4. State the effective date and term of the Lease, which shall not exceed seventy-five (75) years;
 - i. If the lease provides for an option to renew, the lease must specify;
 1. The time and manner in which the option must be exercised or is automatically effective;
 2. That confirmation of the renewal will be submitted to the Lessor, unless the lease provides for automatic renewal;
 3. Whether the Lessor consent to the renewal is required;
 4. That the Lessee must provide notice of the renewal to the Lessor
 5. The additional consideration, if any, that will be due upon the exercise of the option to renew or start the renewal term; and
 6. Any other conditions for renewal (e.g., that the Lessee not be in violation of the lease at the time of renewal).

5. If a Lease authorizes the Lessee to make Permanent Improvements during the term of the Lease the Lease shall identify the general type of each improvement by providing a building plan, construction schedule, and the location of the improvement, and the responsibility for constructing, operating, maintaining, and managing the Permanent Improvements during the Lease term. The Lessee shall be required to provide reasonable notice to Lessor of the construction of any Permanent Improvements not described in the lease. The Lease must specify if the permanent improvements will remain on the leased premises upon expiration, termination or cancellation of the lease, in a condition satisfactory to the Nation and become property of the Nation; be removed within a time syated in the lease, at the Lessee's expense; or be disposed of by other means specified in the lease. The Lease must also provide the Nation wait an option to waive removal language. Ownership of Permanent Improvements shall be defined by the Lease subject to applicable Ho-Chunk codes.

6. Specify all rent and payment requirements, including payment due dates, payee, place of payment, and any interest in a form of acceptable payment;
 - i. If the lease has requires rental reviews or adjustments over the lease term, the lease must;
 1. State how adjustments are made;

2. State who makes the adjustment;
 3. When the Adjustment is effective; and
 4. How the disputes about adjustments are resolved.
7. State the due diligence and insurance requirements that apply, if any;
8. A performance bond shall not be required;
9. State the process for amendment, which shall be in writing, signed by both parties, and with the consent of any Mortgagee;
10. State the governing law, which may include the Nation's laws and applicable federal statutes and regulations; and
11. Include or attach all other provisions required under any applicable federal statutes or regulations, including without limitation including the following:
- i. Use of Premises. It is herein agreed that during the lease term that there must not be any unlawful conduct, creation of a nuisance, illegal activity, or negligent use of waste on Leased Premises.
 - ii. Violations of Lease. The Lessee must comply with all applicable laws, ordinances, rules and regulations;
 - iii. Historic Preservation. If historic properties, archeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity associated with this lease, all activity in the immediate vicinity of the properties, resources, remains, or items will cease and the Lessee will contact BIA and the Nation to determine how to proceed and appropriate disposition;
 - iv. Inspection of Premises. The lender, applicable Federal Agency, and the Lessor and their authorized representative shall have the rights, at any reasonable times during the term of this lease, and with reasonable notice, to enter upon the Leased Premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.
 - v. Inspection of Records. The Lessor and the appropriate agencies may treat any failure by the Lessee to cooperate with a request to make appropriate records, reports, or information available for inspection and duplication as lease violation.
 - vi. Hold Harmless. The Lessee holds the Lessor and the United States harmless from any loss, liability, or damages resulting from

the Lessee's use or occupation of the Leased Premises.

vii. Hazardous Materials. The Lessee indemnifies the Lessor and the United States against all liabilities or costs in relation to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or release or discharge or any hazardous material from the Leased Premises that occurs during the lease term, regardless of fault, with the exception that the Lessee is not required to indemnify the Lessor for liability or cost arising from the Lessor's negligence or willful misconduct.

12. State, if Leased land is within an Indian irrigation project or drainage district, the following:

If Leased premises are within an Indian irrigation project or drainage district, except as provided by 25 CFR 171, the Lessee must pay all operation and maintenance charges that accrue during the lease term. The Lessee must pay these amounts to the appropriate office in charge of the irrigation project or drainage district.

12. Lease Application Process

a. Land-Use and Site Planning: Residential Leases are issued only for properties identified appropriate for residential development within the Nation's Land-Use Plan and should be consistent with the Nation's official zoning map. Prior to approval of a residential lease, a subdivision plat or certified survey map with a legal land description for the property must be approved and provided to the Leasing Office as a plan-of-record.

b. Site Availability: The Leasing Office and Geospatial Information System Office (GIS) will maintain grid maps for property which the Division of Planning and Development ("Planning") has approved for residential development. The maps will show all available sites for building.

c. Initial Screening: Department of Housing staff will verify in writing to the Leasing Office that all applicants have been approved by the Department of Housing for new home construction, if the applicant is funded through a federal program. If the applicant is utilizing other methods of funding, Department of Housing staff will verify that applicant has the funding necessary for new home construction.

d. Pre-application: Applicant requests assistance in acquiring a residential lease from the Leasing Office. After the applicant identifies a potential building site, the Leasing Office confirms that the parcel is available for lease and appropriately zoned. The Land Development Team ("LDT") must be consulted to address potential plan amendments, rezoning, or other land-use regulations. A preliminary site evaluation must be completed by the appropriate entities of the Nation. The Leasing Office may

request, to the appropriate entities, an updated site evaluation if the Leasing Office warrants enough time has passed from the initial preliminary site evaluation.

e. **Application Submittal:** Applicant submits a completed application to the Leasing Office (see completed application requirements). The Leasing Office retains the original application. The application is stamped in with submitted time and date and expires three (3) months from the stamped date if no action is taken. A specific lease parcel is not chosen until the Application information is complete with proof of financing.

f. **Application Review:** The Leasing Office staff will review the application for completeness. Incomplete applications will be returned to the Applicant with a letter outlining information necessary to move the application forward. Completed applications are filed with the Leasing Office.

g. **Land Lease Approval:** Once the lease application is complete, the Leasing Office will draft a standard Residential Lease per the requirements under Section 11 of this Code. The Leasing Office staff will make an advisory recommendation to the Executive Director of Administration. The Executive Director of Administration will approve or deny the Residential Lease. The Executive Director of Administration may require additional information from the Leasing Office prior to approval or denial, if needed. The Vice-President will sign two (2) original completed Residential Leases and return the approved leases to the Leasing Office. The Leasing Office will record and retain the original documents in a lease file.

13. Payment

For any Lease requiring payments, which shall be negotiated by the Nation or through its designated department, official, or agent and approved by Legislative resolution, to be made to the Nation the Nation shall provide the Secretary with such documentation of the lease payments that are sufficient to enable the Secretary to discharge the trust responsibility of the United States such that:

a. The United States shall not be liable for losses sustained by any party to a lease executed; or

b. Pursuant to the authority of the Secretary to fulfill the trust obligation of the United States to the Nation under Federal law (including regulations), the Secretary may, upon reasonable notice from the Nation and at the discretion of the Secretary, enforce the provisions of, or cancel, any lease executed by the Nation

14. Termination of Lease

If construction has not commenced within one (1) year of the execution date of the Lease, the Leasing Office will notify the Lessee, via certified mail, that they have thirty (30) days in which to produce an executed signed construction contract. If a contract is not provided to the Leasing Office within thirty (30) days, the lease will be forwarded

to the Executive Director of Administration for review and make an appropriate decision for extension or termination. If a Lease is terminated, the Leasing Office may also initiate the lease process according to their guidelines.

15. Trespass

If an individual or entity takes possession of, or uses, the Nation's land without a lease and a lease is required, the Nation may treat the unauthorized possession or use as a trespass. The Nation does not recognize squatter rights. The Nation may take action to recover possession and pursue any additional remedies available under applicable law.

16. Forfeiture of Lease

A Lessee may forfeit their lease by obtaining a Land Lease Cancellation Form from the Leasing Office. The Lessee must submit a signed, notarized original to the Leasing Office. The Leasing Office will forward the form cancelling the land lease to the Executive Director of Administration for action. Once the cancellation is executed, it is filed with the Register of Deeds Office and a copy is provided to the former lessee. The property will then be offered in accordance with the Selection Review section of the land lease process. If the property has not been reserved for the Department of Housing, the Leasing Office may also initiate the lease process according to their guidelines.

17. Lease Continuation

If during the land lease application process the Applicant withdraws from the Department of Housing only, the land lease may, by request of the Applicant, continue to be processed by the Leasing Office for the remainder of the 90-day timeframe for lease applications. After which if the Applicant has not obtained other financing, the Leasing Office will consider the lease application as incomplete and proceed with the process described in 12. (f).

18. Lease Renewal

The Leasing Office and Executive Director of Administration will review requests for lease renewals on a case-by-case basis.

19. Recording

a. The Leasing Office will provide the completed Lease and the Designation of a Beneficiary of Lease Form for signature by applicant. Lessee shall be required to pay lease rent as is indicated by lease agreement prior to lease issuance. Following signing and payment of rent Leasing Office will record and provide a certified copy to the Lessee. Original documents will be maintained by Register of Deeds Office and with the Bureau of Indian Affairs Land Titles and Records Office (LTRO) with jurisdiction over the Nation. The Department of Housing will receive a certified copy where indicated.

b. In the case(s) where, under the lease terms, the Lessee is required to pay an amount equal to the property taxes, Lessee shall be required to pay a security deposit equal to the amount of the taxes for the previous year plus agree to pay any increase that may occur. Further Lessee shall complete a waiver form authorizing future payments to be escrowed or automatically deducted from their pre-capita payments.

20. Ownership of Records

Records of activities taken pursuant to this Code are the property of the Nation.

CHAPTER III

PURPOSE OF REVIEW, REQUIREMENTS FOR APPROVAL, CATEGORICAL EXCLUSIONS, AND ENVIRONMENTAL REVIEW

21. Purpose of Review

The purpose of this Section is to establish an environmental review process that satisfies the requirements of t this code.

22. Requirements for Approval

a. The Executive Director of Administration shall not approve a Lease under Section 10 of this Code unless:

1. The Ho-Chunk Nation Division of Natural Resources (“DNR”) has reviewed the Lease and such other information as may be necessary to identify and evaluate any Significant Effect on the Environment of the intended use of the Premises, and has:

i. Made a determination that the uses authorized by the Lease are included within the categorical exclusion stated in Section 23 and provided that determination in writing to the Leasing Office;

ii. Issued a final decision after following the procedure set forth in Section 24; or

2. The DNR has provided the Leasing Office with notice that the Nation has carried out a project or activity funded by a federal agency and that it has relied on the Environmental Review Process of the applicable federal agency rather than the procedures set forth in Section 24.

23. Categorical Exclusions

a. The Legislature hereby finds that the following actions do not individually or

cumulatively have a Significant Effect on the Environment, and therefore, except as otherwise provided in subsection 23(b), are categorically excluded from the procedures set forth in Section 24:

1. Approval of the Lease for residential use of an existing housing unit, including any associated improvements, access roads, and utilities;
 2. Approval of a Lease for five (5) acres or less of contiguous land for construction and residential use of a single structure of one (1) to four (4) dwelling units and any associated improvements, access roads, and utilities.
- b. Notwithstanding subsection 24(a), the DNR shall follow the procedures set forth in Section 24 if it determines that extraordinary circumstances exist under which the residential use of the Premises may, individually or collectively, have a Significant Effect on the Environment, including without limitation, as set forth below:
1. Substantial controversy on environmental grounds;
 2. Presence of cultural resources; or
 3. Presence of historic proprieties.

24. Environmental Review

a. Unless a categorical exclusion applies the DNR shall cause the effects on the environment of the intended uses authorized by the proposed Lease to be identified and evaluated as follows:

1. If the DNR determines that the uses authorized by the proposed Lease will not have a Significant Effect on the Environment then it shall cause the following to occur in order set forth below:
 - i. A finding of no significant impact shall be issued and posted for a minimum of fifteen (15) calendar days in a prominent, noticeable place in the Nation's Executive Office Building.
 - ii. If there is a substantial interest in holding a public meeting it shall be held in accordance with other Ho-Chunk codes to provide an opportunity for Nation members to comment, both written and verbal, on the finding of no significant impact.
 - iii. Comments shall be reviewed and analyzed and a report shall be issued by the DNR responding to relevant and substantive comments, if any, regarding the finding of no significant impact. The report shall be posted for a minimum of fifteen (15) calendar days in a prominent, noticeable place in the Nation's Executive Office Building.

iv. Unless subsection 24(a)(2) applies a final decision on confirming that the uses authorized by the proposed Lease are expected to have no Significant Effect on the Environment shall be issued, sent to the Legislature for approval, and posted for fifteen (15) calendar days in a prominent, noticeable place in the Nation's Executive Office Building.

2. If the DNR determines that the proposed Lease will have a Significant Effect on the Environment then it shall cause the following to occur in the order set forth below:

i. A draft environmental review which identifies and evaluates any Significant Effect of the Environment of uses authorized by the proposed Lease shall be issued and posted for a minimum of thirty (30) calendar days in a prominent, noticeable place in the Nation's Executive Office Building in addition to a publication on the Nation's publicly accessible website;

ii. A meeting shall it shall be held applicable Ho-Chunk codes on the draft environmental review to provide an opportunity for the public to comment for the purposes of environmental review, both written and verbal, on any Significant Effect on the Environment of the uses authorized by the proposed Lease;

iii. Comments shall be reviewed and analyzed and a report by the DNR shall be issued responding to relevant and substantive comments, if any, on any Significant Effect on the Environment of the uses authorized by the proposed Lease. The report shall be posted for a minimum of thirty (30) calendar days in a prominent, noticeable place in the Nation's Executive Office Building in addition to a publication on the Nation's publicly accessible website;

iv. A final environmental review describing the conclusions of the DNR report on the issues and evidence gathered under this Subsection shall be issued and posted for a minimum of thirty (30) calendar days in a prominent, noticeable place in the Nation's Executive Office Building in addition to a publication on the Nation's publicly accessible website; and

v. A final decision assessing the potential for any Significant Effect on the Environment associated with the uses authorized by the Lease shall be issued, sent to the Legislature for approval, and posted for a minimum of thirty (30) calendar days in a prominent, noticeable place in the Nation's Executive Office Building in addition to a publication on the Nation's publicly

accessible website.

CHAPTER IV APPROVAL OF SUBLEASE AND ASSIGNMENT, REQUIREMENTS AND RECORDING

25. Approval of Sublease and Assignment

a. All Subleases and Assignments, other than to a Mortgagee, shall be subject to the approval of the Department of Administration in manner consistent with the Nation's Constitution and laws.

b. All Subleases and Assignments which are subject to the approval of the Department of Administration shall be signed by the Vice-President.

c. After the Secretary approves this Code, all Subleases and Assignments which are approved and executed under this Section shall be effective without federal approval this code, unless the Secretary rescinds approval of this Code and reassumes responsibility for such approval.

d. All Subleases and Assignments shall require the prior approval of any Mortgagee or Surety, if required by the Mortgagee or Surety Agreement.

26. Requirements

a. A Lessee may sublease a Housing Unit or Nation's land in accordance with this Section.

b. A Lessee may assign a Lease in accordance with this Section.

c. No Sublease shall relieve the Lessee or sub-lessor of any liability under the Lease as provided in this Code.

d. In any Assignment, other than to a Mortgagee of the Leasehold Estate, the assignee must agree in writing to assume all of the obligations and conditions of the Lease, and that the Lease is subject to all applicable this Code.

27. Recording

All Subleases and Assignments and amendments thereto shall be recorded at the Register of Deeds Office with copies provided to the Bureau of Indian Affairs with jurisdiction over the Nation's land.

CHAPTER V APPROVAL OF LEASEHOLD MORTGAGE AND RECORDING

28. Approval of Leasehold Mortgage

a. All Leasehold Mortgages under a Lease must be separately authorized by the Legislature, unless the Lease authorizes a Leasehold Mortgage and states the law governing foreclosure.

b. After the Secretary approves this Code, all Leasehold Mortgages which are authorized under this Section shall be effective without federal approval under this Code unless the Secretary rescinds approval of this Code and reassumes responsibility for such approval.

29. Recording

All Leasehold Mortgage, assignments, amendments, satisfactions and sales relating thereto shall be recorded at the Register of Deeds Office with copies provided to the LTRO with jurisdiction over the Nation's land provided that, to the extent required by a Mortgagee. A Leasehold Mortgage shall also be recorded in the appropriate county register of deeds.

CHAPTER VI COMPLAINT, FORM OF COMPLAINT, INFORMAL RESOLUTION, DECISION, APPEAL, AND NO WAIVER OF SOVEREIGN IMMUNITY

30. Complaint

An Interested Party who has reasonable grounds to believe that the Nation has failed to comply with this Code has the right to file a Complaint under this Section.

31. Form of Complaint

The Complaint shall be in writing, signed by the Interested Party, with a description of the alleged noncompliance with this Code which is the subject of the complaint, state all relief requested and submitted to the Legislature.

32. Informal Resolution

The Legislature shall make reasonable efforts to resolve the Complaint informally, including, but not limited to, scheduling a meeting with the Interested Party for such purpose. All complaints which are resolved through such informal resolution shall be reduced to writing and signed by the Legislature and the Interested Party.

33. Decision

If the Complaint is not resolved informally, the Legislature shall issue a decision on the Complaint, which shall be in writing and signed by the Legislature. The Legislature shall cause the decision to be delivered to the Interested Party no later than

twenty (20) business days after receipt of the Complaint. The decision of the Legislature shall constitute a final decision.

34. Appeal

In accordance with this Code an Interested Party who has exhausted the Nation's remedies set forth in this Section may submit a petition to the Secretary, at such time and in such form as the Secretary deems appropriate, to review the Nation's compliance with this Code.

35. No Waiver of Sovereign Immunity

Nothing in this Code shall be deemed to waive the sovereign immunity of the Nation or any of its officials, employees, or representatives.

Legislative History:

- 09.03.13 Legislature adopts resolution 09.03.13C placing the Residential Leasing Code out for forty-five day public comment.
- 12.17.13 Legislature adopts resolution 12.17.13G Approving and Enacting the Residential Leasing Code Pursuant to the HEARTH Act.
- 11.18.14 Legislature rescinds and restates resolution 12.17.13G via resolution 11.18.14G.
- 08.20.19 Legislature places the Residential Leasing Code out for forty-five day public comment via Resolution 08-20-19G.
- 02.04.20 Legislature adopts amendments to the Residential Leasing Code via Resolution 02-04-20A.
- 05.17.22 Legislature adopts amendments via Resolution 05.17.22A.