



COQUILLE INDIAN HOUSING AUTHORITY



COLLECTIONS AND EVICTIONS POLICY

Purpose

The United States government Department of Housing and Urban Development (HUD) offers several programs benefiting Native Americans. HUD's deep subsidies make Indian rental and homeownership housing the best housing deal in America. Living in this subsidized housing has both benefits and obligations. In return for not having to pay for the full cost of a house, homebuyers and tenants are held fully accountable for those smaller payments they are required to make. Those payments are based only on household incomes.

The Coquille Indian Housing Authority (CIHA) uses the required monthly payments for the following:

- To purchase fire and extended coverage insurance;
- Operate, maintain and expand the housing program for current and future residents;
- To develop home equity for existing homebuyers.

No funds are sent to HUD. Required payments are adjusted up or down, annually to assure that families pay only their fair share, based upon their incomes.

Residents are expected to take full responsibility for their required monthly payments in full and on time, every month. In addition, the CIHA houses are a Tribal resource so residents are expected to care for their units in such a way that they will remain fully useable by future generations.

Finally, homebuyers are expected to set aside enough personal funds in their own savings accounts to be able to perform all repairs and maintenance on their houses when needed. A reserve of \$100 per month is recommended.

Section 1. Legal and Regulatory Requirements

The subsidized housing programs do have rules and regulations attached to them. In order to participate in HUD's Indian Housing Programs the regulations require each Indian Housing Authority to adopt Tenant and Homebuyer Collection Policies, including the remedy of eviction.

It states in NAHASDA, 24 CFR 1000 Title II, Section 207:

(Quoting)

- a) **LEASES** - Except to the extent otherwise provided by or inconsistent with tribal law, in renting dwelling units in affordable housing assisted with grant amount provided under this Act, the owner or manager of the housing shall utilize leases that-
 - (1) do not contain unreasonable terms and conditions;

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(2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards;

(3) require the owner or manager to give adequate written notice of termination of the lease, which shall be the period of time required under State, tribal, or local law;

(4) specify that, with respect to any notice of eviction or termination, notwithstanding any State, tribal or local law, a resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;

(5) require that the owner or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms or conditions of the lease, violation of applicable Federal, State, tribal or local law, or for other good cause,

(6) provide that the owner or manager may terminate the tenancy of a resident for any activity engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, for the following reasons:

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by other residents or employees of the owner or manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity) on or off the premises.

(End quote)

The Eviction Procedures of the Coquille Indian Tribe, adopted August 26, 1995, states in Section 4. Unlawful Detainer:

(Quoting)

“A tenant ... shall be guilty of unlawful detainer if such person shall continue occupancy ... (b) After having received thirty days’ notice, ... (1)(a) that he or she is in default in the payment of rent; and (b) requiring him, in the alternative, to pay the rent or surrender possession of the occupied property; and such person has remained in possession after receipt of such notice without either surrendering the possession of the property or paying the rent...”

(End quote)

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Ordinance 9233-A passed by the Coquille Indian Tribe in creating CIHA states in Article VIII (e):

Quoting again

“The Tribal Government hereby declares that the powers of the Tribal Government shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations, including action through the appropriate courts.”

End quote

Section 2. Due Dates for Monthly Payments of Other Charges

A. All required monthly payments are due and payable in full on or before the first day of each month, whether or not billings are sent by CIHA.

- 1) All “other charges” are due and payable on the first day of the month following the charge.
 - a) Person’s using payroll deduction and direct deposit must assure that such methods result in full payment by the first of each month, the same as is required of those paying by check, cash or money order.
 - b) If approved by the Executive Director, households that have a significant portion of their income coming from seasonal work will be allowed to pay at times that more closely match the timing of their income. There will be larger payments during times when the income is larger, offset by lower payments during the lower income times. The larger payments need to be paid in advance, just as the normal payments would.
 - c) If they will be unable to make the full payment when due, residents are responsible for notifying CIHA staff prior to 5:00 p.m. of the fifth day of the month and for agreeing to a Payback Agreement acceptable to CIHA.

Section 3. Notices and Hearing

A. “30 Day Pay or Vacate” Notice

If required payment is not received by close of business on the fifth working day of the month, staff will issue a “30 Day Pay Rent or Vacate” notice on the next business day. The notice will be delivered in person or posted on the residence and also sent by certified mail, return receipt requested (RRR), reminding the residents of the following:

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- 1) The obligation to make required payments on the first of the month;
- 2) that prompt payment is a requirement for continued occupancy;
- 3) that, if the resident has had some unforeseen or unusual problems in making the payment, he must contact CIHA Housing Programs staff immediately to determine if the circumstances warrant special payment arrangements. If the circumstances do not warrant special arrangements, the account must be paid in full to avoid termination of their lease/MHO Agreement. If the family is having temporary financial difficulties they must make a payback agreement with CIHA, and;
- 4) that, if an acceptable payback agreement has not been made or full payment is not received by the 21st of the month, a \$50 late fee will be assessed, in addition to the \$10 late fee assessed on the 6th day of the month;
- 5) that the resident may request in writing within 10 days of the notice a Fair Hearing, and must pay the \$50 late fee to receive the hearing. The \$50 fee may be refunded if a retroactive rent adjustment is granted.
- 6) that, if an acceptable payback agreement has not been made or full payment is not received by the 30th day of the notice period, the lease/MHO Agreement will be automatically terminated and eviction papers will be filed in Tribal court or a court of competent jurisdiction.

Section 5. Payback Agreements

A. If payments are not made as required, a Payback Agreement may be executed by the Executive Director, or his designee, with the resident after financial counseling and after he/she has determined that the resident is still capable of and committed to fulfilling all obligations of their Lease or MHO Agreement.

B. To qualify to maintain occupancy, each homebuyer and tenant with debt balances is required to set up a payback arrangement acceptable to the Executive Director. Failure to make payment as agreed in the Payback Agreement will result in automatic termination of the Lease or MHO Agreement.

C. The resident will be required to pay at least 25 percent of the balance due for a Payback Agreement to be executed, with the Payback Agreement covering the remainder owed. An interest charge of one percent of the outstanding balance will be added to the balance on the second day of each month.

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D. Unless the Executive Director makes an exception, in writing, due to severe hardship, the minimum monthly payments will require full payment within 90 days.

Section 6. Fair Hearing

A. IF REQUESTED IN WRITING BY THE RESIDENT, CIHA WILL SCHEDULE A HEARING, HOWEVER, THE \$50 LATE FEE MUST BE PAID. THE HEARING WILL BE SCHEDULED NO EARLIER THAN 10 DAYS AND NO LATER THAN 25 DAYS AFTER RECEIPT OF THE NOTICE TO PAY OR VACATE. IN EXTENUATING CIRCUMSTANCES THE EXECUTIVE DIRECTOR MAY WAIVE THE \$50 FEE REQUIREMENT, BUT UNLESS IT IS WAIVED, THE FAILURE TO MAKE THIS PAYMENT WILL RESULT IN TERMINATION OF THE HEARING PROCEDURE. AT THIS HEARING THE RESIDENT WILL HAVE THE FOLLOWING OPPORTUNITIES:

- 1) to present adequate reasons to the hearing panel as established by the Board of Directors for non-compliance with the Lease or MHO Agreement;*
- 2) to pay in full, or;*
- 3) to commit to an acceptable Payback Agreement.

The resident's response may be submitted to CIHA in writing. The resident may be represented or accompanied by a person of their choice.

The Hearings Panel will be made up of the Executive Director, the Housing Programs Coordinator and two Commissioners.

B. The Hearings Panel will make its decision whether or not to allow special payment arrangements based only on evidence presented at the hearing. The main focus will be on whether proper procedure was followed and fair outcome for both the resident and the CIHA. However, no eviction will take place until after the original 30 day period has expired.

C. Failure to attend the hearing, after notice in writing of the date and time of the hearing, will result in forfeiture of any further relief from eviction or foreclosure.

D. Decision of Hearing Panel

If it is the decision of the Hearing Panel not to allow special payment arrangements, the panel will issue a notice at the end of the hearing that eviction will be pursued in Tribal Court or court of competent jurisdiction if the resident has not paid in full or voluntarily vacated by the end of the 30 day period.

The method of delivery of the notice will be the same as above if it is not delivered at the end of the hearing.

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The hearing panel may accept full payment, agree to a Payback Agreement, or in unusual circumstances and with full documentation and verification, allow a retroactive rent adjustment.

Section 7. Eviction

If the resident has not paid in full, signed an acceptable Payback Agreement, or vacated at the end of the 30 day period, CIHA will immediately file an eviction action in Tribal Court or other court of competent jurisdiction to obtain a determination of Unlawful Detainer and an Order of Restitution to CIHA.

The CIHA server will serve the court papers by delivering the papers personally to the tenant/homebuyer at their residence or other place.

A. Acceptable Repayment Arrangement Prior to Eviction/Court Action

The resident can repay all amounts owing (including all fees and costs incurred in this process) at any time prior to actual eviction and by doing so will automatically reinstate their Lease or MHO Agreement.

Section 8. Leaving with a Delinquency

A. Debt Balances

Residents with terminated Leases or MHO Agreement that have debt balances (including fees) will be processed through court proceedings for small claims if a Payback Agreement with the ex-resident cannot be executed and/or successfully followed.

B. Future Housing

Residents with terminated Leases or MHO Agreements who have debt balances with an Indian Housing Authority will not receive future housing assistance from the CIHA until those debts have been paid in full.

Section 9. Costs of Debt Collection

Staff will charge all costs incurred in the collection of debts to the resident through the homebuyer's or tenant's account.

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Section 10. Charges to Residents (Damage and Repairs)

A. Repairs

Upon vacating the unit, the ex-residents will be responsible for the costs of all necessary repairs to place the unit in satisfactory condition for the next resident.

B. Payment Arrangements

If the ex-resident does not make adequate payment arrangements, CIHA will file court action against the ex-resident to obtain payment.

C. Failure to Maintain

Upon failure of a homebuyer to fulfill their maintenance obligations, staff will perform the required maintenance and charge the homebuyer's accounts accordingly, consistent with the MHO Agreement.

Section 11. Vacancy Without Notice

A. Possession

If a resident vacates the unit without notice, CIHA will retake possession and immediately inspect the unit to determine if repairs are necessary.

B. Responsibility for Repairs

If repairs are necessary, the ex-resident will be responsible for all costs of those repairs. A copy of the charges will be forwarded to the last known address of the ex-resident.

C. Charges for Repairs

If the ex-resident does not make adequate payment arrangements, CIHA will file court action against the ex-resident to obtain payment.

Section 12. Use of Homebuyers' Equity Accounts

Under extreme and temporary financial hardship on the part of a homebuyer, the Hearing Panel may decide to use the homebuyer's Monthly Equity Payment Account (MEPA) to pay only the administration charge until the homebuyer can resume making the required monthly payments, consistent with the HMO Agreement.

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If staff determines that the condition of a homebuyer's property creates a hazard to the life, health or safety of the homebuyer's family or others, or if there is an immediate risk of serious damage to the property if the condition is not corrected, the corrective work will be completed promptly by the homebuyer with such use of the homebuyer's MEPA, as necessary, or staff may complete the corrective work with the costs charged to the homebuyer's MEPA account

Section 13. Distribution

A copy of this policy will be posted prominently in the CIHA office and will be provided to homebuyers and tenants at move-in and upon request.

Section 14. Requirements for Counseling

Notwithstanding the foregoing, the Executive Director may make exceptions where he determines it is in the best interest of the CIHA and the Tenant and may require, as a condition of forbearance that the Tenant attends and completes a remediation program as established and provided by CIHA.