



US Department Of The Interior
Indian Affairs

The HEARTH Act

Information Series – Part 1

Supporting Tribal Self-Determination, Economic
Growth, and Community Development



Presented by

Bureau of Indian Affairs
Trust Services
Division of Real Estate Services



Welcome to the Bureau of Indian Affairs' Information Series for the HEARTH Act.

This Series provides guidance to tribes who are considering submitting their leasing regulations to the Bureau of Indian Affairs (BIA) for review and approval under the HEARTH Act.

This Part of the Series (Part 1) is a general overview of the HEARTH Act.



THE HEARTH ACT

- On July 30, 2012 the **H**elping **E**xpedite and **A**dvance **R**esponsible **T**ribal **H**ome Ownership (HEARTH) Act of 2012 was signed into law.
- Provisions of the HEARTH Act, an amendment to the Indian Long-Term Leasing Act of 1955, 25 U.S.C. § 415, promote tribal self-determination.
- The HEARTH Act can be used by tribes to exercise their inherent sovereignty over their own tribal lands.





THE HEARTH ACT

- Prior to passage of the HEARTH Act, under federal law and implementing regulations, leases of tribal land generally required approval by the Secretary of the Interior.
- The HEARTH Act empowers federally recognized tribes with a mechanism to opt out of the Secretarial approval requirements for tribal leases.
- Under the HEARTH Act, tribes can exercise their inherent sovereignty to develop and implement leasing regulations to specifically meet their own needs.



THE HEARTH ACT - PARTICULARS

- Tribes are empowered to process and approve leases under their own leasing regulations, provided they have been reviewed by the Bureau of Indian Affairs (BIA) and approved by the Secretary of the Interior.
 - The Act only applies to tribal land.
 - The Act does not apply to lands held in trust for individual Indian landowners.
- Under approved tribal regulations, the HEARTH Act authorizes tribal approval for the following lease types and maximum terms:
 - **Business and agricultural leases:** 25 years, but may include an option to renew for up to 2 additional terms, at no more than 25 years each (a total maximum lease term of 75 years).
 - **Residential, public, religious, educational, or recreational leases:** a term of 75 years.
- The HEARTH Act does not authorize leases for the exploration, development, or extraction, of any mineral resources



THE HEARTH ACT - PARTICULARS (Continued)

- Requirements for approval of tribal leasing regulations:
 - Must be *consistent* with 25 CFR Part 162, effective January 4, 2013
 - The term “consistent” is interpreted in a manner that maximizes the deference given to the tribe.
 - Congress expressly rejected a "meets and exceeds" standard during its final deliberations.
 - Must provide for an environmental review process that includes:
 - Identification and evaluation of significant effects of the proposed lease on the environment
 - A period for public notice and comment related to any significant impacts of the proposed lease on the environment
 - The tribe’s response to relevant and substantive public comments on environmental impacts prior to tribal approval of the lease



THE HEARTH ACT - POTENTIAL BENEFITS TO TRIBES

- Potential Tribal Benefits:
 - Without the requirements to obtain BIA review and approval for leases upon tribal lands, the time to execute and approve leases can be significantly reduced.
 - More efficient and timely execution of business, residential, and other leases within Indian Country, can encourage investment and economic development in tribal communities.
 - Tribal regulations may include provisions that address issues in ways consistent with tribal practices (dispute resolution, trespass, land use for religious purposes).
 - Tribes have the option to enact leasing regulations for specific areas (for example business leasing) and leave remaining areas (for example residential, agricultural) subject to BIA review and Secretarial approval.



THE HEARTH ACT - PREPARING FOR BIA REVIEW OF TRIBAL LEASING REGULATIONS

- It is suggested that tribes considering submitting leasing regulations to the BIA for approval under the HEARTH Act:
 - Assess their own government’s needs related to leasing and whether self-regulation can benefit the tribe.
 - Review the Hearth Act, 25 U.S.C. § 415(h).
 - Obtain a copy of 25 CFR Part 162 (use the Final Rule, published in the Federal Register December 5, 2012, effective January 4, 2013).
 - Refer to Central Office’s National Policy Memorandum (NPM-TRUS-29). This NPM is currently being revised, however, it is still valuable guidance to determine whether completed tribal regulations are “consistent with” 25 CFR 162.
 - Review HEARTH training materials on the BIA’s website <http://www.indianaffairs.gov/WhoWeAre/BIA/OTS/HEARTH/index.htm>. And check back often for additional materials to be added to the site.



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WHERE TO SUBMIT TRIBAL LEASING REGULATIONS (Initial Submission)

Submit tribal leasing regulations, with required tribal signatures, a cover letter requesting review and approval, and any applicable authorizing resolutions to:

Bureau of Indian Affairs
Office of Trust Services
Division of Real Estate Services
1849 C Street NW, MS 4620-MIB,
Washington, D.C. 20240

Concurrently, a PDF and Word version of the submission is emailed to: Sharon Kidman, BIA Division of Real Estate Services, Central Office
HEARTH Act Coordinator
E-mail: sharon.kidman@bia.gov



The review of tribal leasing regulations is coordinated by the BIA Central Office, Division of Real Estate Services.

Sharon Kidman, Realty Specialist
HEARTH Act Coordinator and Liaison
E-mail: sharon.kidman@bia.gov

Carla Clark, Acting Division Chief
Division of Real Estate Services
E-mail: carla.clark@bia.gov

If you have questions about submitting tribal leasing regulations for review under the HEARTH Act, please contact Central Office's HEARTH Act Coordinator, or your Regional or Local Realty Officer.



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*Thank you,
You Have Completed*
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*Please refer to our website for additional guidance materials
provided in conjunction with the Bureau of Indian Affairs'
Information Series for the HEARTH Act.*

<http://www.indianaffairs.gov/WhoWeAre/BIA/OTS/HEARTH/index.htm>