

HEARTH ACT LEASING

The Division of Real Estate Services coordinates the process of approving Tribal leasing regulations under the HEARTH Act.



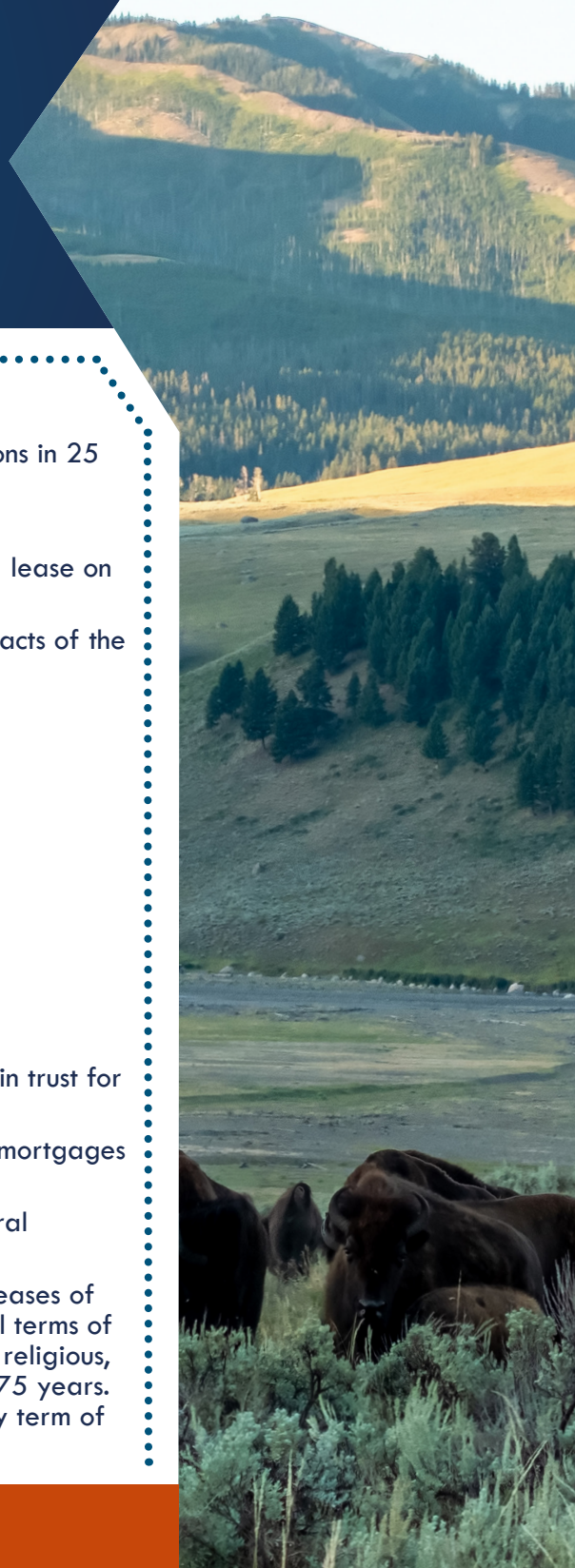
WHAT IS THE HEARTH ACT?

The Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act) offers a voluntary, efficient land-leasing process for Tribes by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. Sec. 415. Once Tribes' governing Tribal leasing regulations under the HEARTH Act are submitted to and approved by the Secretary of the Interior, Tribes may negotiate and enter into covered surface leases without further approval from the Department of the Interior.

How does the HEARTH Act Work?

Tribal HEARTH Act regulations must be consistent with BIA's leasing regulations in 25 CFR Part 162:

- Provide for an environmental review process that includes:
 - » Identification and evaluation of the 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.
- May only authorize the following lease types:
 - » Agricultural
 - » Business
 - » Religious, educational, recreational, cultural, or other public purposes
 - » Residential
 - » Wind Energy Evaluation leases (WEEL)
 - » Wind and Solar Resource (WSR) leases
- Must only apply to tribal trust and/or restricted land, not to lands held in trust for individual Indian landowners, fee lands or fractionated interests.
- May address tribal authority to approve leasehold mortgages, but not mortgages of tribal land.
- Must not authorize exploration, development, or extraction of any mineral resources.
- Authorizes Tribes to execute agricultural, business, and wind and solar leases of Tribal trust lands for a primary term of 25 years and up to two renewal terms of 25 years each. Leases of Tribal trust lands for residential, recreational, religious, or educational purposes may be executed for a primary term of up to 75 years. Wind energy evaluation leases (WEELs) may be executed for a primary term of three years and up to one renewal term of three years.



Elevated Review for Wind and Solar Leases

Consistent with applicable Executive Orders and Secretary's Orders, Tribal leasing regulations that authorize wind energy evaluation leases (WEEL) or wind and solar resource leases (WSR) will undergo an elevated HEARTH Act review process. The process will consist of review by Office of the Executive Secretariat and Regulatory Affairs, subsequent review by the Office of the Deputy Secretary, and final review by the Office of the Secretary. The elevated review will occur after the initial review by the Bureau of Indian Affairs and the Office of the Solicitor.

The review will be based on information that the Tribe provides to the Secretary regarding the reasons the Tribe wishes to pursue WEEL or WSR leasing authority, whether the Tribe has a Power Purchase Agreement in place, if applicable whether the applicant has the technical capability to construct, operate, maintain, and terminate the proposed project, if applicable the applicant's ability to successfully design, construct, and obtain the funding for a project similar to the proposed project, and whether energy resources other than wind and solar are available to meet the Tribe's needs, and whether those other energy resources are feasible alternatives to wind and solar for the Tribe. The specific information Tribes must provide is available in the Indian Affairs Manual at 51 IAM Chapter 13 (Approval of Tribal Leasing Regulations under the HEARTH Act).

Non-WEEL and Non-WSR leasing regulations are not subject to elevated review. Therefore, Tribes that intend to seek approval for other types of leasing authority, such as business or agricultural, may consider whether it would be advantageous to submit those regulations for review and approval separately from their WEEL and WSR regulations.

How to Submit Your Proposed HEARTH Act Regulations for BIA Approval

Submit an original cover letter that includes:

- A request for review and approval of the regulations under the HEARTH Act
- Contact information for parties with decision-making authority for the regulations (e.g., Tribal officers, legal counsel)
- Any special circumstances related to submission of the regulations (e.g., an urgent need for approval; a unique provision included in the regulations)
- One original of the regulations that have been approved by a Tribe and signed by the authorized Tribal parties, along with a Tribal Resolution validating that the documents are originals and not copies. If the Tribe submits copies or the submission is incomplete in any way, the regulations will be considered unofficial and not be reviewed or forwarded for decision until the completed originals are received.
- The Tribe must submit a complete HEARTH Act Leasing Regulation application package to the Division of Real Estate Services (DRES) Bureau of Indian Affairs (BIA) Central Office at the following address:

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

Next Steps

After receiving a Tribe's initial submission for HEARTH Act approval, the Tribe will receive a confirmation email that the package was received at DRES BIA Central Office. In addition, an acknowledgement letter will be sent to the Tribe. Review and approval will proceed in 30-day increments:

- **Days 1-30: Initial internal review**
- **Days 31-60: External review and modifications**
- **Days 61-90: Final review**
- **Days 91-120: Surname and approval**

Tribes will be notified in writing of approval or disapproval. Tribal HEARTH Act regulations are effective upon written notification of approval by the Assistant Secretary-Indian Affairs. Approval determinations are published in the Federal Register.



HEARTH Act Leasing

For more information please scan the QR code or visit

www.bia.gov/service/heardh-leasing/submit-regulations

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