

HEARTH ACT LEASING

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



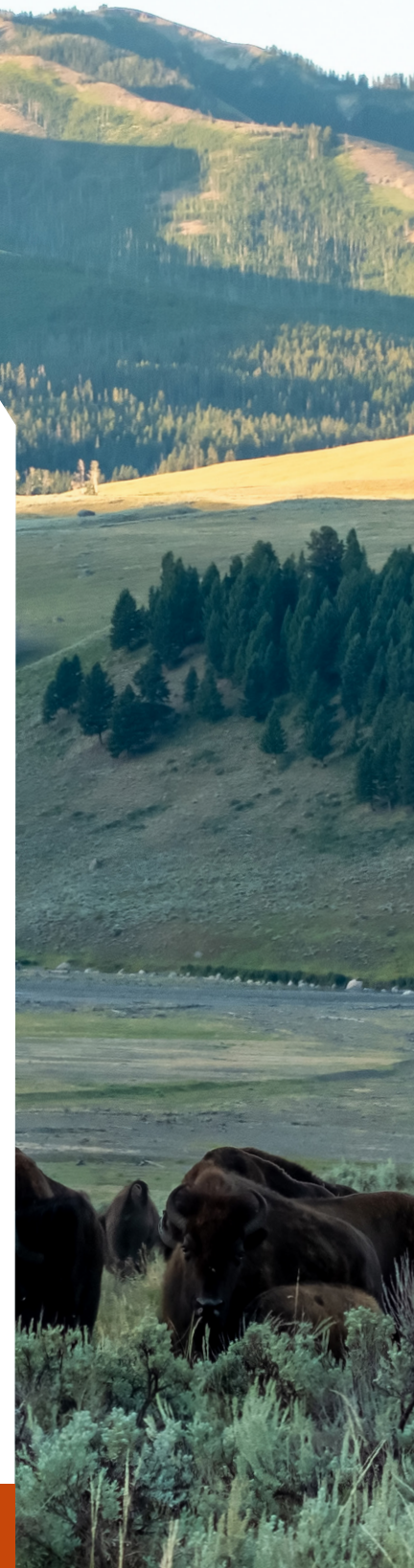
WHAT IS THE HEARTH ACT?

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:
 - » Business
 - » Agricultural
 - » Wind and solar lease (WSR)
 - » Wind Energy Evaluation leases (WEEL)
 - » Residential
 - » Public, religious, educational, or recreational 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.



How do Tribal Communities Benefits from HEARTH Act Leasing Regulations?

- Reduced the time to execute and approve leases may encourage economic development.
- Tribes may enact regulations that are tailored to the unique needs of the Tribe's community.
- Continued access to 25 CFR Part 162
 - » If a tribe with leasing regulations under the HEARTH Act believes a particular lease would be better supported under 25 CFR Part 162, the lease may be submitted for BIA review and Secretarial approval under the CFR.
 - » Leases approved under Part 162, and any amendments, assignments, etc., will remain subject to Part 162 until lease termination or expiration.

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

Division of Real Estate Services

For more information please scan the QR code or visit

1001 Indian School Road, NW, Box #44
Albuquerque, NM 87104

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