

**A COUNCIL BILL ENACTING THE CHOCTAW NATION RESIDENTIAL
LANDLORD-TENANT ACT AND THE CHOCTAW NATION LANDLORD-TENANT
PROCEDURES ACT**

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION
RONALD PERRY INTRODUCED THE FOLLOWING COUNCIL BILL

A COUNCIL BILL

TO ENACT the Choctaw Nation Residential Landlord-Tenant Act and the Choctaw Nation Landlord-Tenant Procedures Act to: regulate and determine rights, obligations and remedies under a rental agreement for a dwelling unit located within the Choctaw Nation reservation, subject to applicable federal laws; and to provide procedures for action brought under the Choctaw Nation Residential Landlord-Tenant Act.

WHEREAS Article IX, Section 4 of the Constitution of the Choctaw Nation of Oklahoma (the “Nation”) provides that the Tribal Council (the “Council”) shall enact legislation, rules and regulations not inconsistent with the Constitution for the general good of the Choctaw Nation and for the administration and regulation of the affairs of the Choctaw Nation; and

WHEREAS the Nation, as a sovereign nation, possesses the right to establish laws, regulations, and procedures governing rental agreements for dwelling units located within the Nation reservation.

THEREFORE BE IT ENACTED by the Tribal Council of the Choctaw Nation of Oklahoma:

SECTION 1. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 100 of Title 140 unless there is created a duplication in numbering, reads as follows:

Chapter 1. Choctaw Nation Residential Landlord Tenant Act

Section 100. Short Title

This act shall be known and may be cited as the Choctaw Nation Residential Landlord Tenant Act.

SECTION 2. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 101 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 101. Definitions

Save for any differences in the context of this act the following definitions shall be used:

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- A. "Building" means a structure, and any appurtenances or additions thereto, designed for habitation, shelter, storage, and the like.
- B. "Building and Housing Codes" means any law, ordinance, or Choctaw Nation governmental regulation or applicable federal law concerning the fitness for habitation, health conditions, or the safety, construction, maintenance, operation, occupancy, use, or appearance of any premises or dwelling unit that is erected on any property over which the Choctaw Nation maintains and exerts jurisdiction.
- C. "C.F.R." means the Code of Federal Regulations.
- D. "Choctaw Nation" means the Choctaw Nation of Oklahoma, and includes any agency, department, or other organization controlled thereby.
- E. "Deposit" means any money or other property required by a landlord from a tenant as and for security for the performance by tenant of its obligations under a rental agreement and which is to be returned to the tenant upon termination of the rental agreement, less any deductions properly made and allowed by the laws of the Choctaw Nation.
- F. "Dwelling unit" means a house, mobile home, or building or portion thereof which is rented or leased as a home, residence or sleeping place by one or more persons, not including public transient accommodation, such as hotel rooms.
- G. "Good faith" means honesty in fact in the conduct of the transaction concerned.
- H. "Guest" means any person, other than Landlord or Landlord's agent, in or around a dwelling unit with the permission and consent of the tenant.
- I. "Housing Authority" means the Housing Authority of the Choctaw Nation of Oklahoma.
- J. "Landlord" means the one who leases real property to another. This may also include the heir(s), successor(s), executor(s), administrator(s), or assign(s) of the landlord.
- K. "MHO" means a mutual help and occupancy agreement between the Housing Authority and the tenant.
- L. "Nuisance" is the maintenance or allowance of a condition on real property which one has the ability to control and which unreasonably threatens the health or safety of the public or neighboring land users or unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of their property.
- M. "Occupant" means any person who abides within a dwelling unit, or any person who owns or occupies a manufactured or mobile home, but who is not a tenant or an unemancipated minor child of a tenant, and who is not legally obligated by the terms of a rental agreement.

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- N. "Organization" includes a corporation, limited liability company, business trust, real estate investment trust, joint venture, joint stock company, cooperative, estate, trust, limited or general partnership, association, bank, insurance company, credit union, savings and loan association, governmental entity or agency thereof, or other organization, regardless of whether the organization is for-profit, nonprofit, formed under the laws of the Choctaw Nation or any other federally recognized Indian tribe, under the laws of any state, the District of Columbia, or any foreign country.
- O. "Owner" is any one or more persons, jointly or severally, vested with all or part of:
1. Legal title to the property; or
 2. Beneficial ownership and a right to present use and enjoyment of the premises.
- P. "Person" includes both individuals and organizations.
- Q. "Premises" means a dwelling unit and the structure of which it is a part, and all facilities and areas connected with it, including grounds, common areas, and facilities intended for the use of tenants or the use of which is promised for tenants.
- R. "Rent" means all periodic payments, except deposits and damages, to be made to a landlord or lessor for the right to use and possession of a dwelling unit.
- S. "Rental Agreement" means an agreement, written or oral, including a mutual help and occupancy agreement, and valid rules adopted, which establish, embody, or modify the terms and conditions concerning the use and occupancy of a dwelling unit and premises. All mutual help occupancy agreements executed between the Housing Authority and home buyers participating in a Mutual Help Homeownership Opportunity Program shall be considered rental agreements and not mortgages, contracts for deed, or any other instrument purporting to confer homeownership rights either at law or in equity.
- T. "Roomer" or "Boarder" means a tenant occupying a dwelling unit which lacks at least one major bathroom or kitchen facility, such as a toilet, refrigerator, or stove, in a building:
1. Where one or more of such major facilities are supplied to be used in common by the occupants of the roomer or boarder's dwelling unit and one or more other dwelling units, and
 2. In which the landlord resides.
- U. "Single family residence" means a structure used and maintained as a single dwelling unit. A dwelling unit, including those with common walls, shall be deemed a single-family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

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- V. "Tenant" means any person(s) entitled under a rental agreement or mutual help occupancy agreement to occupy a dwelling unit.

SECTION 3. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 102 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 102. Rights, Obligation and Remedies – Enforcement

- A. Any right, obligation or remedy declared by this act is enforceable exclusively in Choctaw Nation District Court and may be prosecuted as part of an action for forcible entry or detainer unless the provision declaring it specifies a different and limited effect. In any action for breach of a rental agreement or MHO or to enforce any right or obligation provided for in this act, the prevailing party shall be entitled to reasonable attorneys' fees.
- B. Actions brought under this act by the Choctaw Nation or the Housing Authority may be prosecuted by an attorney employed or retained by the Choctaw Nation or the Housing Authority.

SECTION 4. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 103 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 103. Application

- A. Except as otherwise provided in this act, this act applies to, regulates and determines rights, obligations and remedies under a rental agreement for a dwelling unit located within the Choctaw Nation of Oklahoma reservation, subject to applicable federal laws.
- B. Any rental agreement, whether written or oral, shall be unenforceable insofar as that rental agreement, or any provision thereof, conflicts with any provision of this act.
- C.

SECTION 5. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 104 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 104. Arrangements Not Covered by Act

Unless created to avoid the application of this act, the following arrangements are not governed by this act:

- A. Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious or similar service;

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- B. Occupancy under a contract of sale or contract for deed of a dwelling unit or of the property of which it is a part, if the occupant is the purchaser or a person who succeeds to the purchaser's interest;
- C. Occupancy by a member of a fraternal or social organization in a structure operated for the benefit of the organization;
- D. Transient occupancy in a hotel, motel, or other similar lodging;
- E. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative; and
- F. Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.

SECTION 6. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 105 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 105. Mitigation of Damages

An aggrieved party under the provisions of this act has a duty to mitigate damages.

SECTION 7. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 106 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 106. Settlement of Claim

A claim or right arising under this act or a rental agreement, if disputed in good faith, may be settled by agreement and requires no further consideration.

SECTION 8. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 107 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 107. Good Faith Performance or Enforcement

Every duty under this act and every act which must be performed as a condition precedent to the exercise of a right or remedy under this act imposes an obligation of good faith in its performance or enforcement.

SECTION 9. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 108 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 108. Beneficial Owner to Maintain Premises

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Any agreement, assignment, conveyance, trust deed, or security instrument which authorizes a person other than the beneficial owner to act as a landlord of a dwelling unit shall not relieve the beneficial owner of the duty to conform with this act and any other law, code, ordinance or regulation concerning the maintenance and operation of the premises.

SECTION 10. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 109 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 109. Rent

- A. In the absence of a written rental agreement, the occupants of a dwelling unit shall pay to the landlord as rent the fair rental value for the use and occupancy of the dwelling unit.
- B. Rent shall be payable at the time and place agreed to by the parties. Unless otherwise agreed, the entire rent shall be payable at the dwelling unit at the beginning of any term of one (1) month or less, while one (1) month's rent shall be payable at the beginning of each month of a longer term.

SECTION 11. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 110 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 110. Term of Tenancy

Unless the rental agreement fixes a definite term in writing, the tenancy is week-to-week in the case of a roomer or boarder who pays weekly rent, and in all other cases month-to-month.

SECTION 12. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 111 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 111. Termination of Tenancy

- A. Except as otherwise provided in this act, when the tenancy is month-to-month or a tenancy at will, the landlord or tenant may terminate the tenancy provided the landlord or tenant gives a written notice to the other at least thirty (30) days before the date upon which the termination is to become effective. The thirty (30) day period to terminate shall begin to run from the date the notice to terminate is served as provided in subsection (E) of this section.
- B. Except as otherwise provided in this Title, when the tenancy is less than month to month, the landlord or tenant may terminate the tenancy provided the landlord or tenant gives to the other a written notice served as provided in subsection (E) of this section at least seven (7) days before the date upon which the termination is to become effective.

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- C. Unless earlier terminated under the provisions of this Act or unless otherwise agreed upon, a tenancy for a definite term expires on the ending date thereof without notice.
- D. If the tenant remains in possession without the landlord's consent after the expiration of the term of the rental agreement or its termination under this Title, the landlord may immediately bring an action for possession and damages. If the tenant's holdover is willful and not in good faith, the landlord may also recover an amount not more than twice the average monthly rental, computed and prorated on a daily basis, for each month or portion thereof that said tenant remains in possession. If the landlord consents to the tenant's continued occupancy, a month-to-month tenancy is thus created, unless the parties otherwise agree.
- E. The written notice, required by this Act, to terminate any tenancy or pursue another remedy provided by law, shall be served on the tenant or landlord personally unless otherwise specified by law. If the tenant cannot be located, service shall be made by delivering the notice to any family member of such tenant over the age of fifteen (15) years residing with the tenant. If service cannot be made on the tenant personally or on such family member, notice shall be posted at a conspicuous place on the dwelling unit of the tenant. If the notice is posted, a copy of such notice shall be mailed to the landlord by certified mail.

SECTION 13. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 112 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 112. Duties of Parties Upon Termination of Tenancy

Except as otherwise provided in this act, whenever either party to a rental agreement rightfully elects to terminate, the duties of each party under the rental agreement shall cease and be determined upon the effective date of said termination, and the parties shall thereupon discharge any remaining obligations under this act as soon as practicable.

SECTION 14. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 113 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 113. Rental Agreements

- A. A rental agreement may not provide that either party thereto:
 - 1. Agrees to waive or forego rights or remedies under this act;
 - 2. Authorizes any person to confess judgment on a claim arising out of the rental agreement;
 - 3. Agrees to pay the other party's attorneys' fees;

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4. Agrees to the exculpation, limitation, or indemnification of any liability arising under law for damages or injuries to persons or property caused by or resulting from the acts or omissions of either party, their agents, servants or employees in the operation or maintenance of the dwelling unit or the premises of which it is a part;
 5. Agrees to the establishment of a lien except as allowed by this act in and to the property of the other party.
- B. A provision prohibited by subsection (A) of this Section and included in a rental agreement is unenforceable.
 - C. Any prohibition provided by subsection (A) shall be superseded by MHO provisions mandated by federal law.

SECTION 15. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 113.1 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 113.1. Denial or Termination of Tenancy Because of Guide, Signal or Service Dog

A landlord shall not deny or terminate a tenancy to a blind, deaf, or physically handicapped person because of the guide, signal, or service dog of such person.

SECTION 16. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 113.2 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 113.2. Accommodation for Assistance Animal – Choctaw Nation Fair Housing Act

- A. As used in this section, "assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. "Assistance animal" includes a service animal specifically trained or equipped to perform tasks for a person with a disability, or an emotional support animal that provides support to a person with a disability who has a disability-related need for such support.
- B. As used in this section, "disability" means, with respect to a person, (1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment. Such term does not include current, illegal use of or addiction to a "controlled dangerous substance" as defined by the Choctaw Nation Public Health and Safety Code.
- C. A person with a disability may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling unit. Unless the person making the request has a disability or disability-related need for an assistance animal that is readily apparent, the landlord may request reliable supporting documentation that (1) is necessary to verify that the person meets the definition of disability, (2) describes the needed accommodation, and

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(3) shows the relationship between the person's disability and the need for the requested accommodation. The landlord may independently verify the authenticity of any supporting documentation. Supporting documentation that was acquired through purchase or exchange of funds for goods and services shall be presumed to be fraudulent supporting documentation.

- D. A landlord shall not be liable for injuries by a person's assistance animal permitted on the landlord's property as a reasonable accommodation to assist the person with a disability pursuant to the requirements of subsection C of this section.
- E. If a person obtains a reasonable housing accommodation under this section by knowingly making a false claim of having a disability that requires the use of an assistance animal or by knowingly providing fraudulent supporting documentation in connection with such claim, the landlord may remedy the person's noncompliance by the procedures authorized pursuant to Section 132 of this act. Additionally, a prevailing landlord in an eviction action under this section may be awarded court costs and fees, plus damages not to exceed One Thousand Dollars (\$1,000.00) from the tenant.

SECTION 17. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 113.3 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 113.3. Denial or Termination of Tenancy to Victim or Alleged Victim of Domestic Violence, Sexual Violence or Stalking

A landlord shall not deny, refuse to renew, or terminate a tenancy because the applicant, tenant or member of the household is a victim or alleged victim of domestic violence, sexual violence, or stalking regardless of whether there exists a current protective order. A landlord shall not deny a tenancy or retaliate against a tenant because the applicant or tenant has previously terminated a rental agreement because the applicant or tenant is a victim of domestic violence, sexual violence, or stalking.

SECTION 18. NEW LAW A new section of law to be codified in the Choctaw Statutes as Section 113.4 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 113.4. Flooding Within Past 5 Years to be Disclosed In Written Rental Agreements – Failure to Disclose

- A. If the premises to be rented has been flooded within the past five (5) years and such fact is known to the landlord, the landlord shall include such information prominently and in writing as part of any written rental agreements. Failure to provide such information shall entitle any tenant who is a party to the rental agreement to sue the landlord of the premises in the Choctaw Nation District Court and to recover the personal property damages sustained by the tenant from flooding of the premises. The Choctaw Nation does not waive sovereign immunity for purposes of this Act and shall not be a party to any suit brought

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under this subsection without an explicit waiver of sovereign immunity by the Chief of the Choctaw Nation with the consent of Tribal Council.

- B. For the purpose of this section, "flooded and flooding" shall mean general and temporary conditions of partial or complete inundation of normally dry land areas and structures upon said areas from the overflow of lakes, ponds, streams, rivers, creeks, and any other inland waters.

SECTION 19. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 114 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 114. Alienees – Rights, Obligations and Remedies

Alienees of landlords and tenants shall have the same legal rights, obligations and remedies as their principals.

SECTION 20. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 115 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 115. Damage or Security Deposits

- A. Any damage or security deposit required by a landlord of a tenant must be kept in an escrow account for the tenant. Misappropriation of the security deposit shall be a crime and punishable by a term of imprisonment not to exceed six (6) months and by a fine in an amount not to exceed twice the amount misappropriated from the escrow account.
- B. Upon termination of the tenancy, any security deposit held by the landlord may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with this act and the rental agreement, all as itemized by the landlord in a written statement to be delivered by mail with a return receipt requested and to be signed for by any person of statutory service age at such address or in person to the tenant if he can reasonably be found. If the landlord proposes to retain any portion of the security deposit for rent, damages, or other legally allowable charges under the provisions of this act or the rental agreement, the landlord shall return the balance of the security deposit without interest to the tenant within thirty (30) days after the termination of tenancy, delivery of possession, and written demand by the tenant. If the tenant does not make such written demand of such deposit within six (6) months after termination of the tenancy, the deposit reverts to the landlord in consideration of the costs and burden of maintaining the escrow account, and the interest of the tenant in that deposit terminates at that time.
- C. Upon cessation of a landlord's interest in the dwelling unit including, but not limited to, termination of interest by sale, assignment, death, bankruptcy, appointment of receiver, or

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otherwise, the person in possession of the tenants' damage or security deposits at his option or pursuant to court order shall, within a reasonable time:

1. Transfer said deposits to the landlord's successor in interest and notify the tenants in writing of such transfer and of the transferee's name and address; or
 2. Return the deposits to the tenants.
- D. Upon receipt of the transferred deposits under paragraph 1 of subsection (C) of this section, the transferee, in relation to such deposits, shall have all the rights and obligations of a landlord holding such deposits under this act.
- E. If a landlord or manager fails to comply with this section or fails to return any prepaid rent required to be paid to a tenant under this act, the tenant may recover the damage and security deposit and prepaid rent, if any.
- F. Except as otherwise provided by the rental agreement, a tenant shall not apply or deduct any portion of the security deposit from the last month's rent or use or apply such tenant's security deposit at any time in lieu of payment of rent.
- G. This section does not preclude the landlord or tenant from recovering other damages to which they may be entitled under this act.
- H. Tenants under an MHO agreement may bring an action for settlement or accounting of the disputed accounts and contributions only after the tenants have exhausted their administrative remedies provided by the Housing Authority.

SECTION 21. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 116 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 116. Person to Accept Service or Notice – Identity of Owner and Manager – Failure to Comply

- A. As a part of any rental agreement the landlord shall prominently and in writing identify what person at what address is entitled to accept service or notice under this act. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:
1. The person or persons authorized to manage the premises;
 2. The owner or owners of the premises; or
 3. The name and address of a person authorized to act for and on behalf of the owner for the purpose of receipt of service of process and receiving and receipting for notices.

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The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor owner, landlord, or manager.

- B. A person who fails to comply with this section becomes a landlord for the purposes of this act and an agent of each person who is otherwise a landlord for:
1. Receipt of service of process and receiving and receipting for notices and demands; and
 2. Performing the obligations of a landlord under this act and under the rental agreement and expending and making available for the purpose all rents collected from the premises.

SECTION 22. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 117 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 117. Commencement of Tenancy – Delivery of Possession – Wrongful Possession

A. At the commencement of the term, a landlord shall deliver full possession of the premises to the tenant in compliance with the rental agreement and Section 118 of this act. Except as otherwise provided in this act, the landlord may bring an action for possession against any other person wrongfully in possession and may recover damages.

B. A rental agreement may provide reasonable limitations upon use of a dwelling unit or premises by a tenant or occupant. A landlord shall have the right to demand that an occupant vacate the dwelling unit or the premises or both if such occupant breaches any condition of the rental agreement which would be enforceable against the tenant. If a landlord makes a written request to the tenant or to the occupant for the occupant to depart from the dwelling unit or the premises or both, the occupant shall comply. If the occupant wrongfully fails to comply within a reasonable time, the occupant shall, upon conviction, be deemed guilty of a trespass and may be punished by a fine of not to exceed Five Hundred Dollars (\$500.00) or by confinement in the county jail for a period not to exceed thirty (30) days or by both such fine and imprisonment.

C. A landlord shall have the right to demand that an occupant vacate a dwelling unit or premises if the occupant and landlord have not entered into an oral or written rental agreement. A landlord shall make a written request for the occupant to depart from the dwelling unit or premises or both pursuant to this Act. If the occupant fails to comply within a reasonable time, the occupant shall, upon conviction, be deemed guilty of a trespass and may be punished by a fine of not to exceed Five Hundred Dollars (\$500.00) or by confinement in the county jail for a period not to exceed thirty (30) days or by both such fine and imprisonment.

D. An occupancy limitation of two (2) persons per bedroom residing in a dwelling unit shall be presumed reasonable. The two-person limitation shall not apply to a child or children born to the tenants during the course of the rental agreement.

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SECTION 23. NEW LAW A new section of law to be codified in the Choctaw Statutes as Section 118 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 118. Duties of Landlord and Tenant

- A. A landlord shall at all times during the tenancy:
1. Except in the case of a single-family residence, keep all common areas of landlord's building, grounds facilities and appurtenances in a clean, safe and sanitary condition;
 2. Except as otherwise provided in this act, make all repairs and do whatever is necessary to put and keep the tenant's dwelling unit and premises in a fit and habitable condition;
 3. Except as otherwise provided in this act, maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required to be supplied by landlord;
 4. Except in the case of one or two-family residences or where provided by a governmental entity, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for the frequent removal of such wastes;
 5. Except in the case of a single-family residence or where the service is supplied by direct and independently-metered utility connections to the dwelling unit, supply running water, reasonable amounts of hot water at all times, reasonable heat, and reasonable air conditioning; and
 6. Refrain from taking any action or adopting or enforcing any rule or regulation in retaliation against a tenant who has lawfully sought to pursue remedies for any violation of the tenant's rights, breach of the rental agreement, or violation of obligations, duties, or responsibilities by the landlord.
- B. The landlord and tenant of a dwelling unit may agree in writing independent of the rental agreement that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling.
- C. Conflicting terms of MHO agreements approved by the Housing Authority shall supersede provisions of this section.

SECTION 24. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 119 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 119. Conveyance of Property – Attornment of Tenant

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- A. A conveyance of real estate, or of any interest therein, by a landlord shall be valid without the attornment of the tenant, but the payment of rent by the tenant to the grantor at any time before written notice of the conveyance is given to the tenant shall be good against the grantee.
- B. The attornment of a tenant to a stranger shall be void and shall not affect the possession of the landlord unless it is made with the consent of the landlord, pursuant to a judgment at law, or the order or decree of a court.
- C. Unless otherwise agreed and except as otherwise provided in this act, upon termination of the owner's interest in the dwelling unit including, but not limited to, terminations of interest by sale, assignment, death, bankruptcy, appointment of a receiver or otherwise, such owner is relieved of all liability under the rental agreement and of all obligations under this act as to events occurring subsequent to written notice to the resident of the termination of such owner's interest. The successor in interest to the owner shall be liable for all obligations under the rental agreement or under this act. Upon receipt by a resident of written notice of the termination of the owner's interest in the dwelling unit, the tenant shall pay all future rental payments, when due, to the successor in interest to the owner.
- D. Unless otherwise agreed and except as otherwise provided in this act, a manager of premises that includes a dwelling unit is relieved of liability under a rental agreement and this act as to events occurring after written notice to the tenant of the termination of such management.

SECTION 25. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 120 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 120. Failure of Landlord to Deliver Possession of Dwelling Unit to Tenant

- A. If the landlord fails to deliver possession of the dwelling unit to the tenant, rent abates until possession is delivered and, until possession of the dwelling unit is delivered to tenant, the tenant may terminate the rental agreement by giving a written notice of such termination to the landlord, whereupon the landlord shall return all prepaid rent and deposit, or the tenant may, at his option, demand performance of the rental agreement by the landlord and maintain an action for possession of the dwelling unit against any person wrongfully in possession and recover the actual damages sustained by him.
- B. If a person's failure to deliver possession is willful and not in good faith, an aggrieved person may recover from that person an amount not more than twice the monthly rental as specified in the aggrieved person's rental agreement, computed, and prorated on a daily basis, for each month, or portion thereof, that said person wrongfully remains in possession.

SECTION 26. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 121 of Title 140 unless there is created a duplication in numbering, reads as follows:

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Section 121. Landlord's Breach of Rental Agreement – Deductions from Rent for Repairs – Failure to Supply Heat, Water or Other Essential Services – Habitability of Dwelling

- A. Except as otherwise provided in this act, if there is a material noncompliance by the landlord with the terms of the rental agreement or a noncompliance with any of the provisions of Section 118 of this act which noncompliance materially affects health or safety, the tenant may deliver to the landlord a written notice, which may include a text message or email to the landlord, specifying the acts and omissions creating the breach and that the rental agreement will terminate upon a date not less than thirty (30) days after receipt of the notice if the breach is not remedied within fourteen (14) days, and thereafter the rental agreement shall so terminate as provided in the notice unless the landlord adequately remedies the breach within the time specified.
- B. Except as otherwise provided in this act, if there is a material noncompliance by the landlord with any of the terms of the rental agreement or any of the provisions of Section 118 of this act which noncompliance materially affects health and the breach is remediable by repairs, the reasonable cost of which is less than One Hundred Dollars (\$100.00), the tenant may notify the landlord in writing of his intention to correct the condition at the landlord's expense after the expiration of fourteen (14) days. If the landlord fails to comply within said fourteen (14) days, or as promptly as conditions require in the case of an emergency, the tenant may thereafter cause the work to be done in a workmanlike manner and, after submitting to the landlord an itemized statement, deduct from his rent the actual and reasonable cost or the fair and reasonable value of the work, not exceeding the amount specified in this subsection, in which event the rental agreement shall not terminate by reason of that breach.
- C. Except as otherwise provided in this act, if, contrary to the rental agreement or Section 118 of this act, the landlord willfully or negligently fails to supply heat, running water, hot water, electric, gas, air conditioning, or other essential service, the tenant may give written notice to the landlord specifying the breach and thereafter may:
 - 1. Upon written notice, immediately terminate the rental agreement; or
 - 2. Procure reasonable amounts of heat, air conditioning, hot water, running water, electric, gas, or other essential service during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent; or
 - 3. Recover damages based upon the diminution of the fair rental value of the dwelling unit; or
 - 4. Upon written notice, procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance.

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- D. Except as otherwise provided in this act, if there is a noncompliance by the landlord with the terms of the rental agreement or Section 118 of this Title, which noncompliance renders the dwelling unit uninhabitable or poses an imminent threat to the health and safety of any occupant of the dwelling unit and which noncompliance is not remedied as promptly as conditions require, the tenant may immediately terminate the rental agreement upon written notice to the landlord which notice specifies the noncompliance.
- E. All rights of the tenant under this section do not arise until he has given written notice to the landlord or if the condition complained of was caused by the deliberate or negligent act or omission of the tenant, a member of tenant's family, tenant's animal or pet, or other person or animal on the premises with tenant's consent.
- F. If there is a noncompliance by the landlord with the terms of the rental agreement or any responsibility or obligation set forth in this act, and the tenant is entitled to any relief as provided by law, including termination of the rental agreement, but tenant does not wish to terminate the rental agreement, the tenant may deliver to the landlord a written notice specifying the acts and omissions constituting the breach and if the breach is not remedied within fourteen (14) days, the tenant may institute an action in the Choctaw Nation District Court to compel the landlord's compliance and for any actual damages. Thereafter, the tenant may institute such action in the Choctaw Nation District Court unless the landlord adequately remedies the breach within the time specified.
- G. Conflicting terms of an MHO agreement approved by the Housing Authority shall supersede provisions of this section.

SECTION 27. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 122 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 122. Damage to or Destruction of Dwelling Unit – Rights and Duties of Tenant

- A. If the dwelling unit or premises are damaged or destroyed by fire or other casualty to an extent that enjoyment of the dwelling unit is substantially impaired, unless the impairment is caused by the deliberate or negligent act or omission of the tenant, a member of tenant's family, tenant's animal or pet, or other person or animal on the premises with such tenant's consent, the tenant may:
 - 1. Immediately vacate the premises and notify the landlord in writing within one (1) week thereafter of tenant's intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or
 - 2. If continued occupancy is possible, vacate any part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair value of the dwelling unit.

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- B. If the rental agreement is terminated under this section, the landlord shall return all deposits recoverable under Section 115 of this act and all prepaid and unearned rent. Accounting for rent in the event of termination or apportionment shall be made as of the date of the fire or other casualty.

SECTION 28. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 123 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 123. Wrongful Removal or Exclusion from Dwelling Unit

If a landlord wrongfully removes or excludes a tenant from possession of a dwelling unit, the tenant may recover possession by a proceeding brought in the Choctaw Nation District Court, or terminate the rental agreement after giving notice of such intention to the landlord, and in either case recover an amount not more than twice the average monthly rental, or twice his actual damages, whichever is greater. If the rental agreement is terminated, the landlord shall return all deposits recoverable under Section 115 of this act and all prepaid and unearned rent.

SECTION 29. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 124 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 124. Unlawful Entry or Lawful Entry in Unreasonable Manner – Harassment of– Tenant – Damages

A. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or harasses the tenant by making repeated unreasonable demands for entry, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or, upon written notice, terminate the rental agreement. In either case the tenant may recover actual damages.

B. Neither injunctive relief nor damages shall be available to a tenant if the basis for the landlord's action is the landlord's execution of a writ in the manner prescribed by Section 1148.10A of the Choctaw Nation Code of Civil Procedure.

SECTION 30. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 125 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 125. Defective Condition of Premises – Report to Landlord

Any defective condition of the premises which comes to the tenant's attention shall be reported by the tenant to the landlord as soon as practicable.

SECTION 31. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 126 of Title 140 unless there is created a duplication in numbering, reads as follows:

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Section 126. Tenant's Use and Occupancy of Premises – Rules and Regulations

- A. A landlord, from time to time, may adopt a rule or regulation, however described, concerning the tenant's use and occupancy of the premises. Such a rule or regulation is enforceable against the tenant only if:
1. Its purpose is to promote the convenience, peace, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally; and
 2. It is reasonably related to the purpose for which it is adopted; and
 3. It applies to all tenants in the premises in a fair manner; and
 4. It is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct to fairly inform the tenant what such tenant must or must not do to comply; and
 5. It is not for the purpose of evading the obligations of the landlord; and
 6. The tenant has notice of it at the time such tenant enters into the rental agreement, or when it is adopted.
- B. If the rule or regulation is adopted after the tenant enters into the rental agreement and that rule or regulation works a substantial modification of such tenant's bargain, the rule or regulation so adopted is not valid and enforceable against the tenant unless he consents to it in writing.

SECTION 32. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 127 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 127. Duties of Tenant

- A. The tenant shall at all times during the tenancy comply with the following in such a manner as to protect the property interest of the landlord and any person who resides within three hundred feet (300') of the boundary of the tenant's dwelling unit:
1. Keep that part of the premises which such tenant occupies and uses as safe, clean, and sanitary as the condition of the premises permits;
 2. Dispose from such tenant's dwelling unit all ashes, garbage, rubbish, and other waste in a safe, clean, and sanitary manner;
 3. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean and sanitary as their condition permits;

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4. Use in a safe and nondestructive manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances including elevators in the premises;
 5. Not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or permit any person, animal, or pet to do so;
 6. Not engage in conduct or allow any person or animal or pet, on the premises with the express or implied permission or consent of the tenant, to engage in conduct that will disturb the quiet and peaceful enjoyment of the premises by other tenants.
 7. Comply will all applicable laws, covenants, and rules and regulations adopted in accordance this act.
 8. Not engage in any activity that threatens the health, safety, right of peaceful enjoyment of the premises by other tenants or is a danger to the premises, and not engage in any drug-related criminal activity on or near the premises either personally or by any member of the tenant's household or any person on the premises with the tenant's consent or otherwise under the tenant's control.
- B. The Choctaw Nation or any person who resides within three hundred feet (300') of the offending tenant's dwelling unit and whose peaceful enjoyment or property is damaged by violation of subsection (A) may bring against the tenant or any third party a cause of action for abatement of the violation and/or damages.

SECTION 33. NEW LAW A new section of law to be codified in the Choctaw Statutes as Section 128 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 128. Consent of Tenant for Landlord to Enter Dwelling Unit – Emergency Entry – Abuse of Right of Entry – Notice – Abandoned Premises – Refusal of Consent

- A. A tenant shall not unreasonably withhold consent to the landlord, his agents, or employees to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.
- B. A landlord, his agents, and employees may enter the dwelling unit without consent of the tenant in case of emergency.
- C. A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least one (1) days' notice of landlord's intent to enter and may enter only at reasonable times.

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- D. Unless the tenant has abandoned or surrendered the premises, a landlord has no other right of access during a tenancy except as is provided in this Title or pursuant to a court order.
- E. If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access or landlord may terminate the rental agreement.

SECTION 34. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 129 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 129. Tenant's Breach of Rental Agreement – Wrongful Abandonment

- A. Unless otherwise agreed, use by the tenant of the dwelling unit for any purpose other than as his place of abode shall constitute a breach of the rental agreement and shall be grounds for terminating the rental agreement.
- B. If the tenant wrongfully quits and abandons the dwelling unit during the term of the tenancy, the landlord shall make reasonable efforts to make the dwelling unit available for rent. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, said rental agreement terminates as of the commencement date of the new tenancy. If the landlord fails to use reasonable efforts to make the dwelling unit available for rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If, after making reasonable effort to make the dwelling unit available for rental after abandonment, the landlord fails to re-rent the premises for a fair rental during the term, the tenant shall be liable for the entire rent or the difference in rental, whichever may be appropriate, for the remainder of the term. If the tenancy is from month-to-month or week-to-week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be.

SECTION 35. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 130 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 130. Abandoning, Surrendering or Eviction from Possession of Dwelling Unit – Disposition of Personal Property

- A. If the tenant abandons or surrenders possession of the dwelling unit or has been lawfully removed from the premises through eviction proceedings and leaves household goods, furnishings, fixtures, or any other personal property in the dwelling unit, the landlord may take possession of the property, and if, in the judgment of the landlord, the property has no ascertainable or apparent value, the landlord may dispose of the property without any duty of accounting or any liability to any party. The landlord may dispose of perishable property in any manner the landlord considers fit.
- B. If the tenant abandons or surrenders possession of the dwelling unit or has been lawfully removed from the premises through eviction proceedings and leaves household goods,

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furnishings, fixtures, or any other personal property in or around the dwelling unit, the landlord may take possession of the property, and if, in the judgment of the landlord the property has an ascertainable or apparent value, the landlord shall provide written notice to the tenant by certified mail to the last-known address that if the property is not removed within the time specified in the notice, the property will be deemed abandoned. Any property left with the landlord for a period of thirty (30) days or longer shall be conclusively determined to be abandoned and as such the landlord may dispose of said property in any manner which he or she deems reasonable and proper without liability to the tenant or any other interested party.

C. The landlord shall store all personal property of the tenant in a place of safekeeping and shall exercise reasonable care of the property. The landlord shall not be responsible to the tenant for any loss not caused by the landlord's deliberate or negligent act. The landlord may elect to store the property in the dwelling unit that was abandoned or surrendered by the tenant, in which event the storage cost may not exceed the fair rental value of the premises. If the tenant's property is removed to a commercial storage company, the storage cost shall include the actual charge for the storage and removal from the premises to the place of storage.

D. If the tenant removes the personal property within the time limitations provided in this section, the landlord is entitled to the cost of storage for the period during which the property remained in the landlord's safekeeping plus all other costs that accrued under the rental agreement.

E. The landlord may not be held to respond in damages in an action by a tenant claiming loss by reason of the landlord's election to destroy, sell or otherwise dispose of the property in compliance with the provisions of this section. If, however, the landlord deliberately or negligently violated the provisions of this section, the landlord shall be liable for actual damages.

SECTION 36. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 131 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 131. Death of Tenant - Disposition of Personal Property

A. Upon written request of a landlord, the landlord's tenant shall:

1. Provide the landlord with the name, address, and telephone number of a person to contact in the event of the tenant's death; and

2. Sign a statement authorizing the landlord in the event of the tenant's death to:

a. grant to the person designated under paragraph 1 of this subsection access to the premises at a reasonable time and in the presence of the landlord or the landlord's agent,

b. allow the person designated under paragraph 1 of this subsection to remove any of the tenant's property found at the leased premises, and

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c. refund the tenant's security deposit, less lawful deductions, to the person designated under paragraph 1 of this subsection.

B. A tenant may, without request from the landlord, provide the landlord with the information specified in subsection A of this section.

C. Except as provided in subsection D of this section, in the event of the death of a tenant who is the sole occupant of a rental dwelling:

1. The landlord may remove and store all property found in the tenant's leased premises;

2. The landlord shall turn over possession of the property to the person who was designated by the tenant under subsection A or B of this section or to any other person lawfully entitled to the property if the request is made prior to the property being discarded pursuant to paragraph 5 of this subsection;

3. The landlord shall refund the tenant's security deposit, less lawful deductions, including the cost of removing and storing the property, to the person designated under subsection A or B of this section or to any other person lawfully entitled to the refund;

4. Any person who removes property from the tenant's leased premises shall sign an inventory of the property being removed at the time of removal and submit the signed inventory to the landlord; and

5. The landlord may discard the property removed by the landlord from the tenant's leased premises if:

a. the landlord has mailed a written request by certified mail, return receipt requested, to the person designated under subsection A or B of this section, requesting that the property be removed,

b. the person failed to remove the property by the thirtieth day after the postmark date of the notice, and

c. the landlord, prior to the date of discarding the property, has not been contacted by anyone claiming the property.

D. In a written rental agreement or other agreement, a landlord and a tenant may agree to a procedure different than the procedure in this section for removing, storing, or disposing of property in the leased premises of a deceased tenant.

E. If a tenant, after being furnished with a notice of request, knowingly violates subsection A of this section by failing to provide the required information and statement, the landlord shall have no responsibility after the tenant's death for removal, storage, disappearance, damage, or disposition of property in the tenant's leased premises.

F. If a landlord, after being furnished with a copy of this section, knowingly violates subsection C of this section, the landlord shall be liable to the estate of the deceased tenant for actual damages.

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Section 132. Delinquent Rent

- A. If rent is unpaid when due, the landlord may bring an action for recovery of the rent at any time thereafter or the landlord may wait until the expiration of the period allowed for curing a default by the tenant, as prescribed in subsection B of this section, before bringing such action.
- B. A landlord may terminate a rental agreement for failure to pay rent when due, if the tenant fails to pay the rent within five (5) days after written notice of landlord's demand for payment. Demand for past due rent is deemed a demand for possession of the premises and no further notice to quit possession need be given by the landlord to the tenant for any purpose.

SECTION 37. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 132 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 133. Tenant's Failure to Comply with Rental Agreement or Perform Duties – Rights and Duties of Landlord

- A. Except as otherwise provided in this Act, if there is a noncompliance by the tenant with the rental agreement or with Section 127 of this Act which noncompliance can be remedied by repair, replacement of a damaged item, or cleaning and the tenant fails to comply as promptly as conditions require in the case of an emergency or within ten (10) days after written notice served as provided in subsection E of Section 111 of this Act by the landlord specifying the breach and requiring that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and thereafter submit the itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as rent on the next date rent is due, or if the rental agreement has terminated, for immediate payment. If the landlord remedies the breach as provided in this subsection, the landlord may not terminate the rental agreement by reason of the tenant's failure to remedy the breach.
- B. Except as otherwise provided in this Act, if there is a material noncompliance by the tenant with the rental agreement or with any provision of Section 127 of this Act, the landlord may deliver to the tenant a written notice served as provided in subsection E of Section 111 of this Act specifying the acts and omissions constituting the noncompliance and that the rental agreement will terminate upon a date not less than fifteen (15) days after receipt of the notice unless remedied within ten (10) days from the receipt of notice. If the breach is not remedied within ten (10) days from receipt of the notice, the rental agreement shall terminate as provided in the notice. If within the ten (10) days, the tenant adequately remedies the breach complained of, or if the landlord remedies the breach according to the provisions of subsection A of this section, the rental agreement shall not terminate by reason of the breach. Any subsequent breach of the rental agreement or noncompliance under this section shall be grounds, upon written notice to the tenant, for immediate termination of the rental agreement.

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- C. Notwithstanding other provisions of this section, if there is a noncompliance by the tenant with the rental agreement or with any of the provisions of Section 127 of this Act, which noncompliance causes or threatens to cause imminent and irreparable harm to the premises or to any person and which noncompliance is not remedied by the tenant as promptly as conditions require after the tenant has notice of it, the landlord may terminate the rental agreement by immediately filing a forcible entry and detainer action.
- D. Any criminal activity that threatens the health, safety, or right of peaceful enjoyment of the premises by other tenants committed by a tenant or by any member of the tenant's household or any guest or other person on the premises with the tenant's consent or otherwise under the tenant's control or is a danger to the premises and any drug-related criminal activity on or near the premises by the tenant or by any member of the tenant's household or any guest or other person on the premises with the tenant's consent or otherwise under the tenant's control shall be grounds for immediate termination of the rental agreement.

SECTION 38. NEW LAW A new section of law to be codified in the Choctaw Nation Statutes as Section 133 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 134. Lien on Tenant's Property

A landlord shall have a lien upon that part of the property belonging to the tenant which has a reasonable relationship as nearly as practicable to the amount of the debt owed, which may be in a dwelling unit used by him at the time notice is given, for the proper charges owed by the tenant, and for the cost of enforcing the lien, with the right to possession of the property until the debt obligation is paid to the landlord. Provided, however, that such lien shall be secondary to the claim of any prior bona fide holder of chattel mortgage or to the rights of a conditional seller of such property, other than the tenant.

For purposes of this section, property shall mean any baggage or other property belonging to the tenant which may be in the dwelling unit used by the tenant but which shall not include all tools, musical instruments or books used by the tenant in any trade or profession, all family portraits and pictures, all wearing apparel, any type of prosthetic or orthopedic appliance, hearing aid, glasses, false teeth, glass eyes, bedding, contraceptive devices, soap, tissues, washing machines, vaporizers, refrigerators, food, cooking and eating utensils, all other appliances personally used by the tenant for the protection of his health, or any baby bed or any other item used for the personal care of babies.

SECTION 39. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 134 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 135. Procedure for Enforcement of Lien

- A. The lien provided for by Section 133 of this Act may be foreclosed by a sale of such personal property upon the notice and in the manner following:

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The notice of sale shall be in writing and shall contain, but not be limited to:

1. A statement that the notice is a notice of sale;
2. The names of the owner and any other party or parties who may claim any interest in said property known to the claimant;
3. A description of the property to be sold;
4. The value of the rent provided and unpaid and the dates thereof;
5. The date, time and place of sale;
6. The name of the party, agent or attorney foreclosing such lien.

B. Such notice shall be posted on the front door of the tenant's dwelling unit at least ten (10) days before the time therein specified for such sale, and a copy of said notice shall be mailed to the owner and any other party or parties claiming any interest in said property if known, at their last known post office address by certified mail on the day of posting. Party or parties who claim any interest in said property shall include owners of chattel mortgages and conditional sales contracts as shown by the records in the office of the county clerk in the county where the lien is foreclosed.

C. The lienor or any other person may in good faith become a purchaser of the property sold.

D. Proceedings for foreclosure under this act shall not be commenced until thirty (30) days after the lien has accrued.

SECTION 40. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 136 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 136. Construction of Act

This Act shall be liberally construed and applied to promote and effectuate its underlying purposes and policies.

SECTION 41. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 137 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 137. Removal of Rented Furniture-Procedure

A. Upon termination of a furniture rental agreement, the lessor or agent of the lessor shall not remove the furniture from the possession or dwelling place of the lessee unless the lessee or an agent of the lessee is present. Such furniture shall be marked with either an identifying number or in some other distinguishable manner prior to removal. Before the furniture is removed, the

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lessor or his agent shall inspect the furniture and advise the lessee or the agent of the lessee of each specific item of damage. If furniture is removed when such person is not present or if the furniture is not inspected before removal, the entire amount of any security deposit held by the lessor shall be returned to the lessee.

B. If the lessor complies with the provisions of subsection A of this section and recovers damaged furniture, any security deposit held by the lessor may be applied to the amount of damages which the lessor has suffered due to the fault of the lessee if the lessor provides to the lessee a written itemized statement of damage delivered by mail, to be by return receipt requested and to be signed for by any person of statutory service age at such address. The lessor shall allow the lessee an opportunity to reinspect the furniture in question before any security deposit may be retained or any additional damage charge made.

C. In the case of undamaged furniture, the lessor shall return any security deposit without interest to the lessee within thirty (30) days of the termination of the rental agreement. If the returned furniture is damaged, the lessor shall return the balance of any security deposit above the cost of damage, without interest, to the lessee within thirty (30) days of the inspection of the furniture by the lessee. If the lessee chooses not to inspect the furniture, the balance of the security deposit shall be returned to the lessee within thirty (30) days of the mailing of the written itemized statement of damage.

SECTION 42. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 138 and 139 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 138. Reserved.

Section 139. Reserved.

SECTION 43. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 140 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 140. Federal Rules and Regulations Affecting Indian Housing Programs Shall Take Precedence

Any rule or regulation that has been promulgated by the United States of America, through the Department of Housing and Urban Development, for the implementation and management of Indian housing programs and which the Housing Authority is required to follow shall supersede the provisions of this act and shall be controlling with respect to this act. Prior to commencement of any action under this act an aggrieved party must first exhaust all available administrative remedies available including those applicable and provided by an MHO.

SECTION 44. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 141 of Title 140 unless there is created a duplication in numbering, reads as follows:

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Section 141. Claims Brought Under Provisions of Landlord Tenant Procedures Act

Actions under the Choctaw Nation Residential Landlord Tenant Act shall be brought in accordance with the provisions of the Choctaw Nation Landlord Tenant Procedures Act.

SECTION 45. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 142 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 142. Termination of Mutual Help Occupancy Agreement

A. The procedure for the termination of the MHO shall be according to applicable federal law and any successor regulation, as amended from time to time.

B. In the event that the home buyer disputes any item in the settlement following a termination of an MHO or the disposition of personal property abandoned by the home buyer, the home buyer shall first exhaust all administrative remedies available through the Housing Authority's grievance procedure before the matter shall be within the jurisdiction of the Choctaw Nation District Court.

SECTION 46. NEW LAW. A new chapter of law to be codified in the Choctaw Nation Statutes as Section 201 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 201. Right to Impose Rental Agreement Conditions Regarding Tenant Felony Conviction-Types of Offenses-Supersedes Administrative Rules

A. The owner of any real property, including any improvements consisting of dwelling units, acquired or improved in connection with an allocation of income tax credits pursuant to the provisions of Section 42 of the Internal Revenue Code of 1986, shall have the right to impose conditions in any rental agreement for the occupancy of any dwelling located on real property as described by this section which allow the owner to accept or decline to enter into the rental agreement, or to terminate a previously executed rental agreement based upon the discovery of incomplete or false information, with respect to the prior felony conviction of any person identified as a tenant pursuant to the terms of the rental agreement, including occupants of the dwelling whether or not those occupants formally executed a rental agreement.

B. The owner of real property as described in subsection A of this section may either accept or decline to enter into a rental agreement or to terminate a previously executed rental agreement based upon felony convictions, whether pursuant to federal law or the laws of any tribe, state, or other governmental jurisdiction, for the following types of offenses:

1. Possession of any drug or chemical;
2. Possession of any drug or chemical with intent to manufacture or distribute;

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3. Sex offenses, including but not limited to any form of sexual assault, rape, indecent exposure, or other sexually related offense if such offense was a felony;
 4. Assault or battery or both if the offense was a felony;
 5. Any felony involving violence against another person; and
 6. Such other felony offenses as the owner of the real property as described in subsection A of this section includes in the terms of the rental agreement.
- C. The provisions of this section shall supersede the administrative rule of any tribal agency, board, commission, department, Choctaw Nation beneficiary public trust or other entity of the Choctaw Nation government to the extent of any conflict.
- D. The provisions of this section shall be applicable with respect to lease transactions occurring on or after the effective date of this act without regard to the construction date of the improvements to real property as described by subsection A of this section.

SECTION 47. NEW LAW. A new chapter of law to be codified in the Choctaw Nation Statutes as Chapter 2 of Title 140 unless there is created a duplication in numbering, reads as follows:

Chapter 2. Reserved

SECTION 48. NEW LAW. A new chapter of law to be codified in the Choctaw Nation Statutes as Chapter 3 of Title 140 unless there is created a duplication in numbering, reads as follows:

Chapter 3. Reserved

SECTION 49. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 401 of Title 140 unless there is created a duplication in numbering, reads as follows:

Chapter 4. Choctaw Nation Landlord Tenant Procedures Act

Section 401. Suits Authorized Under Landlord Tenant Procedures

The following suits may be brought under the Landlord and Tenant Procedures Act:

1. Actions under the Choctaw Nation Residential Landlord Tenant Act and any Choctaw Nation act governing non-residential landlord and tenant agreements, for the adjudication of rights arising thereunder, recovery of damages or rents, and other such equitable relief as justice requires.
2. No action may be brought under landlord tenant procedures by any collection agency, collection agent or assignee of a claim.

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SECTION 50. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 402 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 402. Landlord Affidavit – Form – Filing¹

If, after the date set forth in the written notice served as provided in subsection E of Section 111 of this Act, the tenant has not quit possession, the landlord may initiate an action by filing an affidavit in substantially the following form with the Clerk of the Choctaw Nation District Court:

In the District Court of the Choctaw Nation

Plaintiff

vs.

No. _____

Defendant

CHOCTAW NATION OF OKLAHOMA ss
CHOCTAW NATION DISTRICT (OR COUNTY OF _____)

AFFIDAVIT

_____, being duly sworn, deposes and says:

The defendant resides at _____, _____ County, Oklahoma, within the Choctaw Nation of Oklahoma, and defendant's mailing address is _____.

The defendant is indebted to the plaintiff in the sum of \$_____ for rent and for the further sum of \$_____ for damages to the premises rented by the defendant; the plaintiff has demanded payment of said sum(s) but the defendant refused to pay the same and no part of the amount sued for herein has been paid, and/or the defendant is wrongfully in possession of certain real property described as _____; the plaintiff is entitled to possession thereof and has made demand on the defendant to vacate the premises, but the defendant refused to do so.

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public (or Clerk or Judge)

¹ See also § 1148.15, Choctaw Nation of Okla. Code of Civil Procedure.

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TENANT ACT AND THE CHOCTAW NATION LANDLORD-TENANT PROCEDURES ACT**

My Commission Expires: _____

On the affidavit shall be printed in substantially the following form:

ORDER AND SUMMONS

The Choctaw Nation of Oklahoma to the within-named defendant:

You are hereby directed to relinquish immediately to the plaintiff herein total possession of the real property described as _____ or to appear and show cause why you should be permitted to retain control and possession thereof.

This matter shall be heard at _____ (name or address of building), in _____, _____ County of Oklahoma, in the District Court of the Choctaw Nation of Oklahoma at the hour of _____ o'clock of _____ day of _____ (month), 20____, or at the same time and place three (3) days after service hereof, whichever is the latter. (This date shall not be less than five (5) days from the date summons is issued.) You are further notified that if you do not appear on the date shown, judgment will be given against you as follows:

For the amount of the claim for deficient rent and/or damages to the premises, as it is stated in the affidavit of the plaintiff and for possession of the real property described in said affidavit, whereupon a writ of assistance shall issue directing the Choctaw Nation Lighthorse Police to remove you from said premises and take possession thereof.

In addition, a judgment for costs of the action, including attorney's fees and other costs, may also be given.

Dated this _____ day of _____, 20____.

Clerk of the Court (or Judge)

Plaintiff or Attorney
Address
Telephone Number

SECTION 51. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 402.2 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 402.2. Tenant Affidavit – Form – Filing

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A tenant may initiate an action in the Choctaw Nation District Court, if entitled to do so under the provisions of this Act, by filing an affidavit in substantially the following form with the Clerk of the Court:

In the District Court of the Choctaw Nation

Plaintiff

vs.

No. _____

Defendant

CHOCTAW NATION OF OKLAHOMA ss
CHOCTAW NATION DISTRICT (OR COUNTY OF _____)

AFFIDAVIT

_____, being duly sworn, deposes and says:

The defendant is the landlord at the following premises: _____
_____ within the Choctaw Nation of Oklahoma, and defendant's
mailing address is _____. The defendant has injured the plaintiff by _____;
the plaintiff has demanded that defendant comply with their responsibilities as set forth by law, or
by the terms of the rental agreement, and plaintiff has given notice of such to defendant and
defendant has failed to comply after a reasonable period of time as set forth by law; the plaintiff
requests an order compelling compliance and/or damages in the amount of: \$ _____.

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public (or Clerk or Judge)

My Commission Expires: _____

On the affidavit shall be printed in substantially the following form:

SUMMONS

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The Choctaw Nation of Oklahoma to the within-named defendant:

You are hereby directed to comply with your obligations/responsibilities as set forth by law or by the _____ rental _____ agreement _____ as _____ follows:

_____ or to appear and show cause why you should be permitted to continue with your present conduct.

This matter shall be heard at _____ (name or address of building), in _____, _____ County of Oklahoma, in the District Court of the Choctaw Nation of Oklahoma at the hour of _____ o'clock of _____ day of _____ (month), 20____, or at the same time and place three (3) days after service hereof, whichever is the latter. (This date shall not be less than five (5) days from the date summons is issued.) You are further notified that if you do not appear on the date shown, judgment will be given against you as follows:

For the amount of the claim for or damages to the plaintiff, as it is stated in the affidavit of the plaintiff and/or for an order compelling proper and just performance of your duties, responsibilities or obligations as required by law.

In addition, a judgment for costs of the action, including attorney's fees and other costs, may also be given.

Dated this _____ day of _____, 20____.

Clerk of the Court (or Judge)

Plaintiff or Attorney
Address
Telephone Number

SECTION 52. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 403 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 403. Preparation of Affidavits – Copies

The claimant shall prepare such an affidavit as is set forth in the preceding sections, or, at the claimant's request, the Clerk of said Court shall draft the same for such claimant. Such affidavit may be presented by the claimant in person or sent to the Clerk by mail. Upon receipt of said affidavit, properly sworn to, the Clerk shall file the same and make a true and correct copy thereof, and the Clerk shall fill in the blanks in the order printed on said copy and sign the order.

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SECTION 53. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 404 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 404. Service of Affidavit and Summons Upon Defendant; Constructive Service of Summons¹

- A. The summons may be served as in other cases except that such service shall be at least three (3) days before the day of trial, and the return day shall not be later than the day of trial, and it may also be served by leaving a copy thereof with some person over fifteen (15) years of age, residing on the premises, at least three (3) days before the day of trial; or, if service cannot be made by the exercise of reasonable diligence on the tenant or on any person over the age of fifteen (15) years residing on the premises, the same may be served by certified mail with return receipt postmarked at least three (3) days before the date of trial.
- B. If, in the exercise of reasonable diligence, service cannot be made upon the defendant personally nor upon any person residing upon the premises over fifteen (15) years of age, then in lieu of service by certified mail, service may be obtained for the sole purpose of adjudicating the right to restitution of the premises by the Choctaw Nation Lighthouse Police posting or by private process service posting of said summons conspicuously on the building on the premises, and, if there be no building on said premises, then by posting the same at some conspicuous place on the premises sought to be recovered at least five (5) days prior to the date of trial, and by the claimant's mailing a copy of said summons to the defendant at his last-known address by certified mail at least five (5) days prior to said date of trial. Such service shall confer no jurisdiction upon the court to render any judgment against the defendant for the payment of money nor for any relief other than the restoration of possession of the premises to the claimant, unless the defendant appears at trial. Such service shall not be rendered ineffectual by the failure of the defendant to actually see or receive such posted process nor by his failure to actually receive or sign a return receipt for such mailed process.

SECTION 54. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 405 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 405. Date for Appearance of Defendant

The date for the appearance of the defendant as provided in the order endorsed on the affidavit shall not be more than ten (10) days nor less than five (5) days from the date of said order. The order shall be served upon the defendant at least three (3) days prior to the date specified in said order for the appearance of the defendant. If it is not served upon the defendant, the plaintiff must apply to the Clerk for a new order setting a new day for the appearance of the defendant, which shall not be more than ten (10) days nor less than five (5) days from the date of the issuance of the new order. When the Clerk has fixed the date for appearance of the defendant, the Clerk shall

¹ See also *Id.* at §§ 1148.4-1148.5A.

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inform the plaintiff, either in person or by certified mail, of said date and order the plaintiff to appear on said date.

SECTION 55. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 406 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 406. Verified Answer by Defendant

- A. No written answer by the defendant shall be required..
- B. Should the defendant wish to present a written answer to the Court, such verified answer shall state any defenses, factual disputes or counterclaims, and be filed with the Clerk of the Court not later than seventy-two (72) hours prior to the hour set for the appearance of said defendant in such action. Such answer shall be made in substantially the following form:

In the District Court of the Choctaw Nation

Plaintiff

vs.

No. _____

Defendant

CHOCTAW NATION OF OKLAHOMA ss
CHOCTAW NATION DISTRICT (OR COUNTY OF _____)

ANSWER OR COUNTERCLAIM OF DEFENDANT

_____, being duly sworn, deposes and says:

That defendant disputes the facts as alleged by plaintiff and says in response: _____

_____.

That defendant asserts a defense as follows: _____

_____.

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That said plaintiff is indebted to said defendant in the sum of \$ _____ for _____, which amount defendant prays may be allowed as a claim against the plaintiff herein.

Subscribed and sworn to before me this _____ day of _____, 20 _____.

Notary Public (or Clerk or Judge)

My Commission Expires: _____

SECTION 56. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 407 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 407. Depositions – Interrogatories – Discovery and Prehearing Proceedings

No depositions shall be taken or interrogatories or other discovery proceeding shall be used under the landlord and tenant procedure except as provided in this Act or in aid of execution.

SECTION 57. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 408 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 408. Trial by Court – Request for Reporter – Evidence – Informality

Actions under this Act shall be tried to the Choctaw Nation District Court. Provided, however, if either party wishes a court reporter, he must notify the Clerk of the Court in writing at least five (5) days before the time set for the defendant's appearance and must deposit with said notice with the Clerk Fifty Dollars (\$50.00). The party wishing a court reporter is liable for the cost of the court reporter and must make satisfactory arrangements with the court reporter for payment. In the event a court reporter is not available, a party may request the Court to have the proceedings recorded solely by electronic media. The plaintiff and the defendant shall have the right to offer evidence on their behalf by witnesses appearing at such hearing, and the Judge may call such witnesses and order the production of such documents as he or she may deem appropriate. The hearing and disposition of such action shall be informal with the sole object of dispensing speedy justice between the parties. The deposit and cost of a court reporter may be waived by the judge upon a showing of economic hardship by the party requesting the court reporter.

SECTION 58. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 409 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 409. Pre-Eviction Options

A. Parties may resolve any actions under the Act by engaging in the following:

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1. Negotiated Settlement. After a notice to quit is served upon a defendant, the parties may engage in discussions to avoid a proceeding to eviction or settle the issues between the parties. The agreement to enter into discussions will not affect the rights of the parties unless the parties reach an agreement to waive any of their rights.

2. Stay of Proceedings. Where the parties mutually agree in good faith to proceed with such discussions, and judicial eviction procedures have been initiated, the court will stay such proceedings until it is notified by one or both parties that a hearing is required or that a settlement has been reached.

3. Settlement Options. In reaching an agreement, the parties may consider, but are not limited to the following options:

- a. The parties may employ the use of advocates or attorneys;
- b. The parties may employ the use of a mediator or conciliator;
- c. The parties may agree to arbitrate the issues in binding arbitration;
- d. The parties may agree to options set forth in Section § 412;
- e. The parties may agree to any other barter for services and goods, or to any other means of securing a fair exchange of value for the use of the dwelling;
- f. The parties may agree to dismiss the matter in exchange for any agreement reached;
- g. The parties may agree to stipulate to a judgment to be entered by the court.

SECTION 59. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 410 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 410. Defenses

In actions in which the landlord seeks eviction, the Court shall grant the remedies allowed in this Act, unless it appears by the evidence that:

- A. The premises are untenable, uninhabitable, or constitute a situation where there is a constructive eviction of the tenant, in that the premises are in such a condition, due to the fault of the landlord, that they constitute a real and serious hazard to human health and safety and not a mere inconvenience.
- B. The landlord has failed or refused to make repairs which are his responsibility after a reasonable demand by a tenant to do so, without good cause, and the repairs are necessary for the reasonable enjoyment of the premises.

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- C. There are monies due and owing to the tenant because he has been required to make repairs which are the obligation of the landlord and the landlord has failed or refused to make them after a reasonable notice. Such sums may be a complete or partial defense to a complaint for eviction, but only to the extent that such sums set off monies owed for occupancy. A tenant may be evicted after such a period if he fails or refuses to pay the reasonable rental value of the premises.
 - D. That due to the conduct of the landlord, there is injury to the tenant in such a way that justice requires that relief be modified or denied. This shall include the equitable defenses of estoppel, laches, fraud, misrepresentation, and breaches of serious and material obligations for public health, safety, and peace standards.
 - E. That there are such serious and material breaches of applicable housing laws on the part of the landlord that it would be unjust to grant him a remedy.
 - F. The landlord is evicting the tenant because of his/her race, sex, sexual orientation, religion, age, marital status, family status, or because the tenant is disabled.
 - G. The landlord terminated the tenancy in retaliation for the tenant's attempt to secure his rights under this Act or to force the landlord to comply with his duties under this Act.
 - H. Any other material or relevant fact the tenant might present that may explain why his eviction is unjust and unfair.

SECTION 60. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 411 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 411. Dismissal of Action – Failure to File Pleadings¹

- A. Any action under the this chapter which is not at issue and in which no pleading has been filed or other action taken for one (1) year and in which no motion has been pending during any part of the year shall be dismissed without prejudice by the Court on its own motion after notice to the parties or their attorneys of record; providing, the Court may, upon written application and for good cause shown by order in writing, allow the action to remain on its docket.
- B. If service of process under this chapter is not made upon a defendant within one hundred eighty (180) days after the filing of the affidavit, the action shall be deemed to have been dismissed without prejudice as to that defendant. The action shall not be deemed to have been dismissed where a summons was served on the defendant within one hundred eighty (180) days after the filing of the affidavit and a Court later holds that the summons or its service was invalid. After a Court quashes a summons or its service, a new summons may be served on the defendant within a time specified by the Judge. If the new summons is not

¹ See also *Id.* at § 1083.

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served within the specified time, the action shall be deemed to have been dismissed without prejudice as to that defendant. This subsection shall not apply with respect to a defendant who has been in a foreign country for one hundred eighty (180) days following the filing of the affidavit.

SECTION 61. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 412 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 412. Judgment

- A. Within five (5) calendar days of the date of the trial, the Court shall grant and enter judgment and the judgment shall grant all relief that the parties are entitled to as of the date of the judgment. The judgment may:
1. Order the immediate eviction of a tenant and delivery of the premises to the landlord;
 2. Grant actual damages as provided in the rental agreement of the parties or this Act, including interest;
 3. Order the parties to carry out an obligation required by law;
 4. Establish a payment plan for the tenant;
 5. Order rent payments through garnishment;
 6. Establish a Power of Attorney in another person/agency to fulfill rights or obligations of either landlord or tenant;
 7. Remediate the action in part or in whole through appropriate recalculation of rent;
 8. Order the payment of attorneys' fees and, where allowed by law or agreement, costs and expenses of litigation;
 10. Grant any relief provided in this Act or allowed in law or equity.
- B. If a defendant fails to appear in person or in writing on or before the date of appearance, the Court shall enter judgment on behalf of the plaintiff following a hearing to determine whether relief should be granted and the kind of relief that should be granted.

SECTION 62. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 413 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 413. Form of Judgment

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The judgment shall state the relief granted by the Court to any party, but need not state findings of fact or conclusions of law in support of the judgment. The judgment may state brief reasons for it.

SECTION 63. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 413a of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 413a. Stay of Execution by Posting Supersedes Bond-Failure to Post Bond-Payment of Current Rentals.¹

A. The plaintiff or agent of the plaintiff or officer shall immediately notify the defendant in person or by posting of said notice that the plaintiff or agent of the plaintiff or officer shall return in forty-eight (48) hours to restore the plaintiff possession of the premises by executing the writ prescribed in Section 415 of this Act and shall make levy to collect the amount of the judgment and all accruing costs.

B. The original writ of execution issued as provided by Section 415 of this Act shall be filed in the action in the manner provided for judgments in civil cases.

C. The plaintiff or agent of the plaintiff may execute the writ upon the defendant by personally serving a certified copy of the writ upon the defendant or upon a person authorized to receive service of process as provided by Section 404 of this Act. If the plaintiff or agent of the plaintiff is unable to personally serve the defendant or a person authorized to receive service of process as provided by this section of this Act, the plaintiff or agent of the plaintiff may post a notice in a conspicuous place at the premises address that the plaintiff or agent of the plaintiff shall return at a specified date and time, which shall be not less than forty-eight (48) hours from the time of posting, to restore the plaintiff to possession of the premises by executing the writ prescribed in Section 415 of this Act.

D. Any person who wrongfully refuses to surrender possession of the premises described in the writ of execution upon service of the writ by the plaintiff or the agent of the plaintiff shall, upon conviction, be deemed guilty of a trespass and may be punished by a fine in an amount not to exceed Five Hundred Dollars (\$500.00) or by confinement in jail for a period not to exceed thirty (30) days or by both such fine and imprisonment.

E. The plaintiff or the agent of the plaintiff may summon the tribal police for assistance in executing the writ.

F. The plaintiff's, the agent of the plaintiff's, or the officer's return shall be as upon other executions. Within two (2) days of the date of the judgment, the defendant may post supersedeas bond conditioned as provided by law. This time limit may be enlarged by the trial judge's order to not more than seven (7) days after the date of judgment. The posting of a supersedeas bond shall not be construed to relieve the defendant of his duty to pay current rent as it becomes due while the

¹ See also *Id.* at, § 1148.10.

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appeal is pending. The rent shall be paid into the court clerk's office together with poundage. If there be controversy as to the amount of rent, the judge shall determine by order how much shall be paid in what time intervals. Withdrawal by the plaintiff of rent deposited in the court clerk's office pending appeal shall not operate to estop him from urging on appeal his right to the possession of the premises. Failure to pay current rentals while the appeal is pending shall be considered as abandonment of the appeal.

SECTION 64. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 414 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 414. Payment of Judgment

If judgment be rendered against either party for the payment of money, including court costs and/or attorneys' fees, said party shall pay the same immediately or pay the judgment in accordance with a judgment satisfaction plan arranged by the Court.

SECTION 65. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 415 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 415. Writ of Execution – Form – New Trial¹

If judgment be for the landlord and eviction of the tenant is ordered, the Court shall issue a writ of execution thereon, which shall be in substantially the following form:

The Choctaw Nation of Oklahoma to the Choctaw Nation Lighthorse Police:

Whereas, in a certain action for the forcible entry and detention (or for the forcible detention as the case may be) of the following described premises, to wit: _____ lately tried before me, wherein _____ was plaintiff, and _____ was defendant, judgment was rendered on the _____ day of _____, 20____, that the plaintiff have restitution of said premises; and also that he recover rent, attorney fees and costs in the sum of \$_____; you, therefore, are hereby commanded to cause the defendant to be forthwith removed from said premises and said plaintiff to have restitution of the same; also that you levy on the goods and chattels of the said defendant, and make the costs aforesaid, and all accruing costs, and of this writ, make legal and due return.

Witness my hand this _____ day of _____, 20____.

Judge

A motion for a new trial may be filed only within three (3) days of judgment but shall not operate to stay execution.

¹ See also *Id.* at § 1148.10.

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SECTION 66. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 417 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 417. Appeals

Appeals may be taken from the judgment rendered under the procedures authorized in this Title to the Choctaw Nation Court of Appeals in the same manner as appeals are taken in other civil actions.

SECTION 67. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 418 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 418. No Self-Help Eviction

No landlord may compel a tenant to vacate any premises in a forceful fashion or way which causes a breach of the peace. All landlords shall give a notice to quit and obtain a court order as provided in this Title.

SECTION 68. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Section 419 of Title 140 unless there is created a duplication in numbering, reads as follows:

Section 419. Fees

A fee of Fifty Dollars (\$50.00) shall be charged and collected for the filing of the affidavit for the commencement of any action. If a pleading is served by the Choctaw Nation Lighthorse Police, the Court Clerk shall collect a fee of Fifty Dollars (\$50.00) for the Choctaw Nation Lighthorse Police as a service fee. A licensed private process server may serve pleadings under this act. The party using the services of a private process server must pay the private process server directly. After judgment, the Court Clerk shall issue such process and shall be entitled to collect only such fees and charges as are allowed by law for like services in other actions. All fees collected as authorized by this section shall be deposited with other fees that are collected by the District Court. The trial judge may waive any fees assessed against a party upon a showing of economic hardship by the party.

SECTION 69. NEW LAW. A new chapter of law to be codified in the Choctaw Nation Statutes as Chapter 5 of Title 140 unless there is created a duplication in numbering, reads as follows:

Chapter 5. Reserved

SECTION 70. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Chapter 6 of Title 140 unless there is created a duplication in numbering, reads as follows:

Chapter 6. Reserved

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SECTION 71. NEW LAW. A new section of law to be codified in the Choctaw Nation Statutes as Chapter 7 of Title 140 unless there is created a duplication in numbering, reads as follows:

Chapter 7. Reserved

SECTION 72. NEW LAW. A new chapter of law to be codified in the Choctaw Nation Statutes as Chapter 8 of Title 140 unless there is created a duplication in numbering, reads as follows:

Chapter 8. Reserved

SECTION 73. NEW LAW. A new chapter of law to be codified in the Choctaw Nation Statutes as Chapter 9 of Title 140 unless there is created a duplication in numbering, reads as follows:

Chapter 9. Reserved

SECTION 74. NEW LAW. A new chapter of law to be codified in the Choctaw Nation Statutes as Chapter 10 of Title 140 unless there is created a duplication in numbering, reads as follows:


Chapter 10. Reserved

SECTION 75. EFFECTIVE DATE. The provisions enacted in this Council Bill shall become effective immediately.

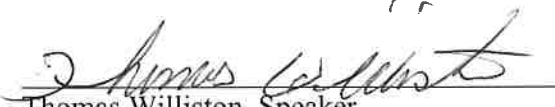
A COUNCIL BILL ENACTING THE CHOCTAW NATION RESIDENTIAL LANDLORD-TENANT ACT AND THE CHOCTAW NATION LANDLORD-TENANT PROCEDURES ACT

CERTIFICATION


I, the undersigned, as speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that twelve (12) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council in Tuskahoma, Oklahoma on March 9, 2024. I further certify that the foregoing Council Bill CB- 44 -24 was adopted at such meeting by the affirmative vote of twelve (12) members, zero (0) negative votes, and zero (0) abstaining.



Ronald Perry, Secretary
Choctaw Nation Tribal Council



Thomas Williston, Speaker
Choctaw Nation Tribal Council



Gary Batton, Chief
Choctaw Nation of Oklahoma

Date 3-14-24

A COUNCIL BILL ENACTING THE CHOCTAW NATION RESIDENTIAL LANDLORD-TENANT ACT AND THE CHOCTAW NATION LANDLORD-TENANT PROCEDURES ACT

Purpose/Need of Council Bill: This bill enacts the Choctaw Nation Residential Landlord-Tenant Act and the Choctaw Nation Landlord-Tenant Procedures Act. These two acts regulate and determine rights, obligations, and remedies under a rental agreement for dwelling units located within the Choctaw Nation reservation, subject to applicable federal laws, and provides procedures for actions brought under the Choctaw Nation Residential Landlord-Tenant Act.

Title of Council Bill: A COUNCIL BILL ENACTING THE CHOCTAW NATION RESIDENTIAL LANDLORD-TENANT ACT AND THE CHOCTAW NATION LANDLORD-TENANT PROCEDURES ACT

Agency: Legal & Compliance

Budget: N/A

Match Required: N/A

Request by Project Director: Brian Danker, SEO-Legal & Compliance