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Stewart Legal Services

Bulletin

SLS2014012

Date: August 19, 2014
To: All Issuing Offices
RE: **UNDERWRITING - Indian Lands, The HEARTH ACT**

Dear Associates:

The Helping Expedite and Advance Responsible Tribal Ownership ("HEARTH") Act allows all tribes to opt out of the requirement for approval of the Secretary of the Interior when leasing their tribal trust lands.

The Act allows federally recognized tribes to develop their own leasing regulations, which must be approved by the Secretary of the Interior before implementation. Under the Act, the Secretary of the Interior is required to approve or disapprove proposed regulations no later than 120 days after submission.

Tribes may choose to regulate business or agricultural leases for terms of 25 years with an option to renew for up to two additional 25-year terms; and in the case of leases for public, religious, educational, recreational, or residential purposes, for terms of 75 years.

Leases for the exploration, development, or extraction of any mineral resources are excluded from regulation by a tribe under the Act.

A tribe may choose to develop regulations governing all or any part of the surface leasing on their tribal lands. For example, a tribe may choose to govern business leases only.

One of the requirements for the tribal leasing regulations is that they establish an environmental review process that identifies any significant effects of the proposed action on the environment. The Act does not define any of these terms.

The HEARTH Act does not apply to Allotment interests or Allotment lands, which are land or interests in land held in trust for an individual Indian. Individual Indian landowners, or Allotment owners, must continue to receive approval from the Interior Department to lease their lands.

A significant provision of the Act provides the United States shall not be liable for losses sustained by a party to a lease executed pursuant to tribal leasing regulations.

As of June 6, 2014, twelve tribes have had their tribal leasing regulations approved under the Act.

Guidelines:

If tribal leasing regulations exist, underwriters must confirm that the tribal regulations include the type of lease which is the subject of the transaction, and that the lease complies with the regulation.

Requirement: Furnish for review a copy of any leasing regulations adopted by the Tribe and approved by the Interior Department, Bureau of Indian Affairs, or documentation satisfactory to the Company that tribal leasing regulations have not been adopted by the subject Tribe.

Note:

INSURING INDIAN LANDS IS AN EXTRAHAZARDOUS RISK AND MUST BE APPROVED BY A SENIOR UNDERWRITER.

If you have any questions relating to this or other bulletins, please contact a Stewart Title Guaranty Company underwriter.

For on-line viewing of this and other bulletins, please log onto <http://vuwriter.com> .

THIS BULLETIN IS FURNISHED TO INFORM YOU OF CURRENT DEVELOPMENTS. AS A REMINDER, YOU ARE CHARGED WITH KNOWLEDGE OF THE CONTENT ON [VIRTUAL UNDERWRITER](#) AS IT EXISTS FROM TIME TO TIME AS IT APPLIES TO YOU, AS WELL AS ANY OTHER INSTRUCTIONS. OUR UNDERWRITING AGREEMENTS DO NOT AUTHORIZE OUR ISSUING AGENTS TO ENGAGE IN SETTLEMENTS OR CLOSINGS ON BEHALF OF STEWART TITLE GUARANTY COMPANY. THIS BULLETIN IS NOT INTENDED TO DIRECT YOUR ESCROW OR SETTLEMENT PRACTICES OR TO CHANGE PROVISIONS OF APPLICABLE UNDERWRITING AGREEMENTS. CONFIDENTIAL, PROPRIETARY, OR NONPUBLIC PERSONAL INFORMATION SHOULD NEVER BE SHARED OR DISSEMINATED EXCEPT AS ALLOWED BY LAW. IF APPLICABLE STATE LAW OR REGULATION IMPOSES ADDITIONAL REQUIREMENTS, YOU SHOULD CONTINUE TO COMPLY WITH THOSE REQUIREMENTS.

References

Bulletins Replaced: None.

Related Bulletins:

[SLS00180](#) - Native Americans/Indians: Title Insurance, Leasehold Loans, etc. - UPDATE

SLS201400x UNDERWRITING - Indian Lands - Review and Update

Underwriting Manual:

[9.08](#) Indian Titles

Exceptions Manual:

[NAA](#) Native Americans

Forms: None.