

ORDINANCE 04-06

Be it enacted by the Tribal Council of the Colorado River Indian Tribes (hereinafter the Tribal Council) an ordinance establishing procedures for obtaining possession of real property within the Colorado River Indian Reservation, to be effective October 12, 2006, as follows:

PROPERTY CODE  
ARTICLE I. EVICTIONS

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**PROPERTY CODE  
ARTICLE I. EVICTIONS**

[NOTE: Except as otherwise noted the provisions of Ordinance No. 04-06 were enacted on October 12, 2006, and becomes effective upon its enactment.]

**ARTICLE I. EVICTIONS**

**CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS**

**Section 1-101. Purpose.**

The purpose of this Article is to provide authority for lessors or landlords, including the Tribes, to regain possession of real property and to evict a lessee or tenant or other occupant therefrom.

**Section 1-102. Jurisdiction.**

The provisions of this Article shall govern relationships between all landlords and tenants and over all property whether private or public real property within the exterior boundaries of the CRIT reservation and subject to the authority of the Tribes.

**Section 1-103. Relation to other laws.**

The remedies established in this Article are in addition to any other remedies that may be available under Tribal, federal or state law.

**Section 1-104. Definitions.**

As used in this Article, the following words will have the meanings given them in this Section unless the context plainly requires otherwise.

- a) "Landlord" means the Tribes, [CRRMC/Indian Housing Authority,] a person, or entity that is the owner, lessor, or sublessor of real property that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.
- b) "Lease" means all agreements, including, but not limited to a permit, rental agreement, or lease-to-purchase agreement, whether written or oral, as well as valid rules and regulations, regarding the terms and conditions of the use or occupancy of real property.
- c) "Lessor" means the legal, beneficial, or equitable owner of real property under a lease, and may include the heir(s), successor(s), executor(s), administrator(s), or

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assign(s) of the lessor.

- d) "Lessee" means the user and/or occupier of real property under a lease and includes a homebuyer under any federal mortgage program including the Mutual Help program. The lessee may, for purposes of federal agency home mortgage programs, be the CRRMC/Indian Housing Authority.
- e) "Nuisance" means the maintenance or allowance on real property of a condition which the lessee has the ability to control and which unreasonably threatens the health or safety of the public or nearby land users or unreasonably and substantially interferes with the ability of nearby property users to enjoy the reasonable use and occupancy of their property.
- f) "Person" includes an individual or organization, and where the meaning of this Article requires, it may mean the Tribes, a public agency, corporation, partnership, or other entity.
- g) "Premises" means a portion of real property, and all facilities and areas connected thereto, including grounds, common areas, and facilities, intended for the use of lessees or tenants or the use of which is promised for lessees or tenants.
- h) "Rent" means all periodic payments to be made to the landlord or lessor under a lease.
- i) "Reservation" means the Colorado River Indian Reservation.
- j) "Tenant" means the lessee(s), sublessee(s), or person(s) entitled under a lease to occupy real property to the exclusion of others.
- k) "Term of lease" means the initial term or any renewal or extension of the written rental agreement currently in effect not including any wrongful holdover period.
- l) "Tribal Council" or "Council" means the tribal council of the Colorado River Indian Tribes.
- m) "Tribal Court" or "Court" means the tribal court established by the Colorado River Indian Tribes.
- n) "Tribes" means the Colorado River Indian Tribes.
- o) "Waste" means spoil or destruction by a tenant of land, buildings, gardens, trees, or improvements which results in substantial injury to the lessor's interest in real property.

- p) "Writ of Restitution" means an order of the Tribal Court restoring an owner, lessor or landlord to possession of real property and evicting a lessee, tenant or other occupant therefrom.
- q) "Writ of Possession" means an order of the Tribal Court giving immediate possession of real property to the person entitled to such possession under the court order.

## **CHAPTER 2. PROCEDURES FOR SELF-HELP EVICTION**

### **Section 1-201. Use of Self-Help Eviction.**

The Tribes may utilize self-help eviction in accordance with this Chapter.

### **Section 1-202. Grounds.**

The Tribes may utilize self-help eviction under the following circumstances:

- (a) Where a lease has expired or been canceled and the lessor has given notice, as required by the lease and in accordance with the law, that the lease has been terminated and the former lessee must vacate the premises, and the time provided in the notice to vacate has expired; or
- (b) Where the person to be evicted has entered onto or remains on the premises of another without permission and without having any substantial claim of a lease or other legal interest in the premises; or
- (c) Ten (10) days after the lessee's interest has been foreclosed in a foreclosure proceeding in the Tribal Court ; or

### **Section 1-203. Approval of the Tribal Council.**

Self-help evictions pursuant to this Chapter may be conducted only with the approval of the Tribal Council pursuant to a Resolution adopted by the Council for that purpose, but shall not occur when termination of the lease is subject to appeal and the appeal is pending. The Council may consider such a Resolution upon request by the Attorney General or on the motion of any Council Member.

### **Section 1-204. Notice.**

Prior to conducting any self-help eviction pursuant this Chapter, the Realty Services Department or other designee of the Council (known henceforth in this Chapter as "Realty Officer") shall serve a three(3) day written notice upon the person to be evicted that the person is occupying Reservation premises without the consent of the Tribes and

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that unless the person to be evicted voluntarily vacates such Reservation premises and removes the person's property from the premises within three (3) calendar days of receiving the notice, the Tribes shall take possession of the premises in question by forcible entry and dispose of any remaining property pursuant to the June 10, 1994 Tribes' Abandoned Property Resolution, (Resolution #66-94).

(a) The notice required by this Section may be served either:

- (1) By delivering a copy to the person to be evicted personally; or
- (2) If the person is absent from the premises, by leaving a copy with a person of suitable age and discretion on the premises and sending a copy through the United States Mail addressed to the person at his or her current place of residence, if known, or the person's last known place of residence or business; or
- (3) If a person of suitable age or discretion on the premises cannot be found, then by fixing a copy in a conspicuous place on the premises and by sending a copy through the United States Mail addressed to the person to be evicted at his or her current place of residence, if known, or the person's last known place of residence or business; or
- (4) If a person of suitable age or discretion on the premises cannot be found, and a place of residence or business cannot be ascertained, then by fixing a copy in a conspicuous place on the premises.

(b) The notice required by this Section may be combined with any other notice given to vacate the property pursuant to Section 1-202 of this Chapter.

### **Section 1-205. Self-Help Evictions.**

The Realty Officer is hereby authorized, after the notices required by Section 1-204 of this Chapter have been given and in accordance with the provisions of this Chapter, to take possession of the premises by forcible entry, including, but not limited to, the following means:

- (a) Forcing locks, breaking open doors, windows, or other parts of a dwelling and any gates, fences, or security systems on the property; or
- (b) Using whatever reasonable force is necessary to retake possession of and reoccupy the premises.

**Section 1-206. Abandoned Property.**

Once the Realty Officer has taken possession of any Reservation premises pursuant to this Chapter, the Realty Officer is hereby authorized to remove any personal property from such premises and to raze or remove any structure located upon such premises. Any property removed pursuant to this Chapter shall be disposed of in accordance with the June 10, 1994 Tribes' Abandoned Property Resolution, (Resolution #66-94).

**Section 1-207. Posting the Property.**

After taking possession of any Reservation premises pursuant to this Chapter, the Realty Officer shall post the property with signs indicating that the property is Reservation premises and that trespassers will be prosecuted. In addition, the Realty Officer shall notify appropriate law enforcement officials that the Tribes has taken possession of such premises and that any person who enters such premises without the express written permission of the Tribes should be arrested and prosecuted.

**Section 1-208. Breach of Peace Prohibited.**

In taking possession of any Reservation premises pursuant to this Chapter, the Realty Officer shall not breach the peace or threaten or use any physical force against any person.

**CHAPTER 3. SUMMARY TRIBAL COURT PROCEDURE FOR EVICTION AND REGAINING POSSESSION OF LANDS**

**Section 1-301. Grounds for Eviction.**

A person may be evicted for:

- (a) Occupation of any premises without permission or agreement, following any reasonable demand by a person in authority over the premises to leave, including where a lease has expired or been cancelled, or where the person to be evicted entered onto the premises without permission, or under other circumstances described in Chapter 2, Section 1-202 of this Article; or
- (b) Nonpayment of rent under an agreement for the lease of the premises when such payments are not made after ten (10) calendar days of the agreement date for payment, or ten (10) calendar days following the first day of the month in a month-to-month tenancy; or
- (c) Any agreement in rent, costs, or damages which have been due and owing for thirty (30) calendar days or more. The receipt by a landlord of partial payments under an agreement shall not excuse the payment of any balance due upon demand;

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or

- (d) Nuisance, waste, intentional or reckless damage, destruction, or injury to the property of the landlord or other tenants, or disturbing another tenant's right to quiet enjoyment of property; or
- (e) Serious or repeated violations of the lease, any applicable rules or regulations, or any applicable building or housing codes; or
- (f) Conviction of a criminal offense where the activity of such criminal offense threatens the health, safety, welfare, or right of peaceful enjoyment of other residents of the community and no appeal is pending and he has been given notice, in accordance with this Article, that the lease shall terminate at a time specified by the notice, but not less than thirty (30) calendar days from the date of such notice; or
- (g) Conviction of a criminal offense regarding drugs on or near the premises and no appeal is pending and he has been given notice, in accordance with this Article, that the lease shall terminate at a time specified by the notice, but not less than thirty (30) calendar days from the date of such notice; or
- (h) Under other terms in the lease which do not conflict with the provisions of this Article

### **Section 1-302. Notice to Quit Requirements.**

#### (a) When Notice to Quit is Required.

(1) When a landlord desires to obtain possession of premises that are occupied without permission or agreement, following any reasonable demand to leave as described in Section 1-301 (a) of this Chapter, no additional notice to quit is required.

(2) When a landlord desires to obtain possession of premises, and when there exists one or more legally cognizable reasons to evict the tenant as set forth in Section 1-301 (b)-(h) of this Chapter, the landlord shall give notice to the tenant to quit possession of such premises pursuant to this Section.

(b) Statement of Grounds for Eviction Required. The notice to quit shall be addressed to the tenant and shall state the reason(s) for the termination of the tenancy and the date by which the tenant is required to quit possession of the premises.

(c) [Form of Notice. The notice shall be in writing and in substantially the following form:



“I (or we) hereby give you notice that you are to quit possession or occupancy of the premises now occupied by you at (insert the address or other reasonable description of the location of the premises), on or before the (insert the date) for the following reason (insert the legally cognizable reason or reasons for the notice to quit possession using the statutory language or words of similar import). Signed, (insert the signature, name and address of the landlord, as well as the date and place of signing).”]

(d) Time Requirements for Notice. The notice required by this Section must be delivered within the following periods of time:

- (1) No less than seven (7) calendar days before the date to quit for any failure to pay rent or other payments required by the agreement.
- (2) No less than three (3) calendar days prior to the date to quit for nuisance, serious injury to property, criminal convictions set forth in Section 1-301 (f) and (g), or injury to persons.
- (3) In situations in which there is an emergency, such as a fire or condition making a dwelling unsafe or uninhabitable, or in situations involving an imminent or serious threat to the public health or safety, the notice may be made in a period of time which is reasonable, given the circumstances.
- (4) No less than fourteen (14) calendar days in all other circumstances.

**Section 1-303. Serving the Notice to Quit.**

(a) Any notice to quit must be in writing, and must be delivered to the tenant by either:

- (1) Delivering a copy to the tenant personally; or
- (2) If the tenant be absent from the premises, by leaving a copy with some person of suitable age and discretion on the premises and sending a copy through the United States Mail addressed to the tenant at his or her current place of residence, if known, or his or her last known place of residence or business; or
- (3) If a person of suitable age or discretion on the premises cannot be found, then by fixing a copy in a conspicuous place on the premises and by sending a copy through the United States Mail addressed to the tenant at his or her current place of residence, if known, or his or her last known place of residence or business; or
- (4) If a person of suitable age or discretion on the premises cannot be found,

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and a place of residence or business cannot be ascertained, then by fixing a copy in a conspicuous place on the premises.

(b) Proof of service by either of the above methods may be made by affidavit of any adult person stating that he or she has complied fully with the requirements of this Section.

### **Section 1-304. Summons and Complaint.**

If, after the date set forth in the notice to quit, the tenant has not quit possession, the landlord may commence an action in the Tribal Court for eviction and such other relief as the Court may deem just and proper, by filing with the Tribal Court, in writing, the following documents:

(a) A complaint stating:

- (1) The names of the person(s) against whom the suit is brought;
- (2) A description of the lease, if any;
- (3) The address or reasonable description of the location of the premises;
- (4) The grounds for eviction;
- (5) Evidence demonstrating that the notice to quit has been properly served, which may include an affidavit;
- (6) The relief demanded, including any claim(s) for possession of the premises, damages, fees, costs, or other special relief.

(b) A copy of the summons, issued in accordance with established Tribal Court procedures, requiring the defendant to appear for a trial upon the complaint on a date and time specified in the summons pursuant to Section 1-305 of this Chapter and notifying defendant that judgment will be taken against him or her in accordance with the terms of the complaint unless he or she files an answer with the Court in accordance with Section 1-306 of this Chapter and appear for trial at the time, date and place specified in the summons.

(c) A copy of the summons and complaint shall be served upon the defendant in the manner provided by established Tribal Court procedures.

### **Section 1-305. Action Upon Filing Complaint; Setting Trial Date; Procedures.**

(a) When a complaint is filed in the Tribal Court, it shall be immediately presented to a

Tribal Court Judge. This shall be on the date of filing, or if no judge is present, on the first regular Court day after filing or when a judge may first be found. The judge shall review the complaint and shall, if it appears to be in compliance with this Chapter, issue an order of the Court requiring the defendant named in the complaint to appear before the Court for a trial on a certain date. The trial date shall be not less than twelve (12) days nor more than thirty (30) days from the date of filing. Upon setting of the date for appearance, the plaintiff shall have the defendant served with the complaint and a summons to appear for the trial date.

(b) Except as otherwise provided in this Chapter, the action shall proceed according to the procedures ordinarily applicable in the Tribal Court.

**Section 1-306. Answer.**

In any action under this Chapter, unless otherwise ordered by the Court for good cause shown, the time allowed for defendant to answer the complaint shall not exceed ten (10) calendar days from service of the complaint and summons. The answer shall be in writing and may deny any allegations contained in the complaint and/or set forth any factual disputes, and must specifically set forth any of the defenses described in Section 1-311 of this Chapter that he or she is asserting.

**Section 1-307. Necessary Party Defendants; Joinder; Subtenants after Notice to Tenant; Persons Bound by Judgment.**

No person, other than the person in actual occupation of the premises when the complaint is filed, need be made a party defendant in the proceeding, nor shall any proceeding abate, nor the plaintiff be nonsuited for the nonjoinder of any person who might have been made a party defendant, but when it appears that any of the defendants served with process, or appearing in the proceeding, are unlawfully in tenancy pursuant to this Chapter, judgment must be rendered against that defendant. In case a defendant has become a subtenant of the premises after the service of the notice to quit provided for by this Chapter, upon the tenant of the premises, the fact that such notice was not served on each subtenant shall constitute no defense to the action. All persons who enter the premises under the tenant, after commencement of the suit, shall be bound by the judgment, the same as if he or they had been made party to the action.

**Section 1-308. Motion to Quash Service or Stay or Dismiss Action.**

In any action under this Chapter, where the defendant files a motion to quash service, stay proceedings, or dismiss the complaint, the time for filing the motion shall be the same for the filing of an answer, and the time for hearing the motion shall be not less than three (3) days nor more than seven (7) days after filing the motion. The filing of such a motion shall extend the defendant's time to answer such that defendant shall have until five (5) days after service of a notice of entry of an order denying the defendant's

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motion to file his or her answer.

### **Section 1-309. Entry of Default.**

If at the time appointed, any defendant served with a summons does not answer the complaint or appear at the trial and defend, the Court shall, upon written application of the plaintiff and proof of the service of summons and complaint, enter the default of any defendant so served, and, if requested by the plaintiff, immediately enter judgment thereon.

### **Section 1-310. Extensions of Time; Rents.**

- (a) Unless specified otherwise, extensions of time for dates established in this Chapter may be granted only with the consent of the adverse party or upon good cause shown.
- (b) The Court may in its discretion on motion from the landlord order the tenant to pay into the Court rents for the use and occupancy during the pendency of the eviction case.
- (c) A defendant may, upon the payment of a reasonable sum for the fair rental value of the premises between the date on which the complaint was filed and the date of the hearing, obtain an extension of time beyond the period allowed for a trial. Such an extension is not to exceed fourteen (14) days without the consent of the adverse party. The Court may refuse to extend the date of hearing where the complaint is based upon nuisance, and shall not extend the date of hearing where the complaint is based upon conduct which is alleged to constitute a serious danger to the public health, safety, or peace.

### **Section 1-311. Defenses.**

The Court shall grant the remedies allowed in this Chapter, except that one or more of the following may constitute a sufficient defense, to the extent necessary to ensure justice, to an action brought under this Chapter:

- (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 the landlord's responsibility after a reasonable demand by the tenant to do so, without good cause, and the repairs are necessary for the reasonable enjoyment of the premises.
- (c) There are monies due and owing to the tenant because the tenant 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 or she 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 may 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 law on the part of the landlord that it would be unjust to grant the landlord a remedy.

(f) The landlord is evicting the tenant because of his or 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 or rights under this Code or to force the landlord to comply with his duties under this Code.

(h) Any other material fact relevant under this Code or Tribal customs and traditions the tenant might present that may explain why the eviction is unjust and unfair.

(i) On the trial of an action brought under this Chapter, the issue shall be the right of actual possession and the merits of title shall not be inquired into.

**Section 1-312. Discovery and Pre-hearing Procedures.**

Extensive, prolonged, or time consuming discovery and prehearing proceedings will not be permitted, except in the interests of justice and for good cause shown by the moving party. Discovery shall be informal, and reasonably provided on demand of a party, and it shall be completed no later than five (5) calendar days before the date of hearing. Requests for discovery shall be made no later than five (5) calendar days following the setting of a hearing date. The court may enter reasonable orders requiring discovery or protecting the rights of the parties upon reasonable notice.

**Section 1-313. Evidence.**

The Court may consider any oral or documentary evidence presented that is relevant to the facts and issues raised by the Complaint without regard to its admissibility under the rules of evidence that apply to other court proceedings; however, the Court may give less weight to evidence that is hearsay or otherwise inadmissible under the rules of evidence. Evidence of the customs and traditions of the Tribes shall be freely admitted.

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### **Section 1-314. Burden of Proof.**

The burden of proof in all proceedings under this Chapter shall be preponderance of the evidence.

### **Section 1-315. Trials.**

Whenever an issue of fact is presented by the pleadings, it shall be tried by the Tribal Court Judge. No party shall have the right to a trial by jury for actions brought under this Chapter.

### **Section 1-316. Judgment.**

Within five (5) calendar days of the date of the hearing, 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:

- (a) Order issuance of a Writ of Restitution ordering the immediate eviction of a tenant and delivery of the premises to the landlord;
- (b) Grant actual damages as provided in the agreement of the parties or this Chapter, including interest;
- (c) Order the parties to carry out an obligation required by law;
- (d) Establish a payment plan for the tenant;
- (e) Order rent payments out of per capita payment or through garnishment;
- (f) Establish a Power of Attorney in another person/agency to fulfill rights or obligations of either landlord or tenant;
- (g) Remediate the action in part or in whole through appropriate recalculation of rent;
- (h) Order the tenant to perform work for the landlord, lessor or owner to pay off back rent due and/or damages;
- (i) Order the payment of attorneys' fees and, where allowed by law or agreement, costs and expenses of litigation, except where such costs and fees would be awarded against the Tribe without its express and unambiguous written consent;
- (j) Order the parties into negotiations; or
- (k) Grant any relief provided in this Code or allowed in law or equity, or by the Tribes'

customs and traditions.

**Section 1-317. Form of Judgment.**

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. If a trial is held, the judge should, whenever possible, render his or her decision immediately after both parties have rested their case and award costs and restitution as appropriate.

**Section 1-318. Execution of the Judgment.**

The judgment may be executed by a duly authorized law enforcement officer or officer of the Court, appointed by the Court for such a purpose.

(a) To execute a Writ of Restitution, the officer shall:

- (1) Remove all the evicted persons from the premises and verbally order them not to re-enter;
- (2) Provide a copy of the Writ of Restitution to all adult tenants;
- (3) Post copies of the Writ of Restitution on the doors of the premises, if applicable, if there is not any adult tenant present at the time of execution; and
- (4) Supervise the removal of the possessions of the evicted persons by the former tenants or pursuant to the June 10, 1994 Tribes' Abandoned Property Resolution, (Resolution #66-94), if applicable, or, if the abandoned property resolution is not applicable, pursuant to Subsection (b) below.

(b) If the Tribes' abandoned property resolution is not applicable and the former tenant does not remove his or her belongings, personal property shall be handled as follows: Following forcible eviction of the defendant and/or other occupants, the former occupant's personal property shall be stored by the landlord for at least thirty (30) days, either on the premises or at another suitable location. In order to reclaim their property, the former occupants shall pay the reasonable costs of its removal and storage. If they do not pay such costs within thirty (30) days, the landlord is authorized to sell the property in order to recover these costs. The landlord shall not condition return of the former occupant's personal property on the payment of any costs or fees other than those of removal and storage of those personal possessions. If a landlord attempts to condition return of personal possessions on payment of any other cost or fee, the landlord shall forfeit his or her right to the costs of removal and storage. Upon request by the former

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occupants, the landlord shall provide them with pertinent information concerning the sale, including the time, date and location. Any proceeds from the sale in excess of the storage and removal costs shall be remitted to the former occupants. Nothing in this Section shall be construed to prevent the former occupants from reclaiming property remaining after the sale if they can arrange to do in a manner satisfactory to the owner. If the abandoned property is of cultural, religious, or ceremonial significance, the landlord shall have an affirmative duty to locate next of kin and/or contact the Tribes in order to return these items.

(c) Any law enforcement officer shall, upon receipt of an order of the Court, execute the judgment or order made by it within five (5) calendar days of the date of the judgment or order and make a report to the Court on what was done to enforce it. Otherwise, the judgment shall be subject to execution in the manner otherwise provided under Tribal law.

### **Section 1-319. Forcible Eviction.**

Where the Court orders an eviction, and the defendant or any other occupant of the premises refuses to vacate voluntarily by the effective date of that Order, the defendant or other occupants may be forcibly removed from the premises by a Tribal or other appropriate law enforcement officer. In the event of a forcible eviction, any abandoned property shall be disposed of pursuant to the June 10, 1994 Tribes' Abandoned Property Resolution, (Resolution #66-94), if applicable or, if the abandoned property resolution is not applicable, as described in Section 1-318 of this Chapter.

### **Section 1-320. Immediate Possession.**

(a) Upon filing the complaint, the plaintiff may, upon motion, have immediate possession of the premises by a writ of possession issued by the Tribal Court and directed to an appropriate law enforcement official for execution, where it appears to the satisfaction of the Tribal Court, after notice to the defendant and a hearing on the motion, from the complaint and from any affidavits filed or oral testimony given by or on behalf of the parties, that the defendant resides off of the Reservation, has departed from the Reservation, cannot, after due diligence be found on the Reservation, or has concealed himself or herself to avoid the service of summons.

(b) Written notice of the hearing on the motion shall be served on the defendant by the plaintiff in accordance with the Tribal Court's rules, and shall inform the defendant that he or she may file affidavits on his or her behalf with the Court and may appear and present testimony on his or her behalf, and that, if he or she fails to appear, the plaintiff may apply to the Court for a writ of possession.

(c) The Court may require the plaintiff to file an undertaking with good and sufficient sureties in a sum to be fixed and determined by the Court to the effect that, if the plaintiff



fails to recover judgment against the defendant for the possession of the premises or if the suit is dismissed, the plaintiff will pay to the defendant such damages, not to exceed the amount fixed in the undertaking, as may be sustained by the defendant by reason of such dispossession under the writ of possession. An action to recover such damages shall be commenced by the defendant in the Tribal Court within one year from the date of entry of dismissal or of final judgment in favor of the defendant.

(d) Notwithstanding the foregoing, the Tribes shall not be required to post bond or any other type of surety in order to obtain a writ of possession.

**Section 1-321.Stay of Execution.**

If judgment for possession of the premises enters in favor of the landlord, the tenant may apply for a stay of execution of the judgment or order within five (5) calendar days of the judgment being rendered. The Court may grant the stay for good cause, if any of the following is established:

- (a) Good and reasonable grounds affecting the well being of the party are stated; or
- (b) There would be no substantial prejudice or injury to the prevailing party during the period of the stay; or
- (c) Execution of the judgment could result in extreme hardship for the party; or
- (d) A bond is posted or monies are paid to the Court, to satisfy the judgment or payment for the reasonable use and occupancy of the premises during the period of time following the judgment. No stay may exceed three months in the aggregate. The clerk shall distribute such arrearages to the landlord in accordance to any order of the Court.

**Section 1-322.Appeals.**

Appeals under this Chapter shall be handled according to the general Tribal appellate provisions, with the exception that the party taking the appeal shall have only five (5) calendar days from the entry of the order of judgment to file an appeal. All orders from the Court will remain in effect during the pendency of an appeal under this Chapter unless otherwise ordered by the Court.

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