

Mille Lacs Band Statutes Annotated

Amendments received through: June 27, 2011

TITLE 12 - HOUSING

Chapter	Section
1. Housing Department	1
2. Native American Veteran Direct Loan Program	101

CHAPTER 1

HOUSING DEPARTMENT

Section

1. Purpose and Findings
2. Definitions
3. Housing Department
4. Executive Director
5. Housing Board
6. Board Member Selection Process
7. Process to Fill Vacant Board Positions
8. Officers
9. Meetings
10. Quorum
11. Removal of Board Members
12. Housing Board Bylaws
13. Transfer of Ownership Interests

Historical and Statutory Notes

The Title of Band Ordinance 18-04 (this Chapter) is “An ordinance to amend 11-01-14-04 (Housing) to delete any and all references to the Housing Department as a Tribally Designated Housing Entity (“TDHE”). Bill 11-01-14-04 repealed 12 MLBSA §§ 1-33 and established a new Government structure known as the “Housing Department” to administer the Mille Lacs Band of Ojibwe Indians Housing programs.”

The Preamble to and Sections 101.1 and 115 of Band Ordinance 18-04 (this Chapter) provide:

Preamble: “This Ordinance shall establish a new structure for the administration of the Band’s Housing programs and shall be cited hereafter as the ‘Fair and Equitable Housing Act.’”

§ 101.1: “This Ordinance repeals and replaces in its entirety 12 MLBSA §§ 1-33 (Housing) and amends 13 MLBSA § 1001 (Powers and duties of the Commissioner of Community Development).”

§ 115: “Nothing contained in this Ordinance shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe Indians.”

The Title of Band Ordinance 27-04 is “An Ordinance to amend 11-01-18-04 (Housing) in order to correct language regarding the nomination and confirmation of Board Members.”

The Preamble to Band Ordinance 27-04 provides: “It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purposes of correcting language in the Housing Department Bill so as to reflect the process for the confirmation of Board Members.”

§ 1. Purposes and Findings

(a) There are currently a duplication of housing programs and services available to Band members and the Band Assembly recognizes a need to coordinate the housing programs to maximize the resources of the Band.

(b) To eliminate the duplication of housing programs, a new structure known as the “Housing Department” will be administered under the direction of the Commissioner of Community Development.

(c) To assist the Commissioner of Community Development with the scope of this task, there is a need to create a new position known as the “Executive Director of the Housing Department.” The Executive Director will be responsible for the daily administration of the Housing Department’s programs and services. The Executive Director shall report directly to the Commissioner of Community Development.

(d) To accommodate the new housing structure, a newly created Housing Board will work in partnership with the Commissioner of Community Development and the Executive Director to ensure that long-term housing needs are clearly identified through the implementation of Strategic Planning.

(e) The Band Assembly also recognizes that a new process must be established to continually assess and manage the housing needs as the demographics of the Band change.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, §§ 101.2-6.

§ 2. Definitions

- (a) **Band** means the Mille Lacs Band of Ojibwe Indians.
- (b) **Band Assembly** means the legislative branch of the Mille Lacs Band of Ojibwe Indians.
- (c) **Band Member** means an enrolled person of the Mille Lacs Band of Ojibwe Indians.
- (d) **Executive Director** means the person responsible for the daily administration of the Housing Department who shall report directly to the Commissioner of Community Development.
- (e) **Commissioner of Community Development** means an appointed official of the Executive Branch who is responsible for the administration, management, supervision and coordination activities for Community Development, Public Works, Facilities Management, Transportation and the Housing Department.
- (f) **Housing Board** means the advisory board that works in partnership with the Commissioner of Community Development and the Executive Director of the Housing Department.
- (g) **Housing Department** means the structure created by statute to be responsible for new construction, renovations, residential land acquisition, residential services, maintenance, the Home Loan program and transitional housing.
- (h) **Misconduct** means a dereliction of duty, unlawful behavior, misdeed, impropriety, mismanagement, unfair treatment, or conduct that shows willful or wanton disregard of any Band member's right to housing.
- (i) **Service Area** means the area designated to receive housing services as enacted in Band Assembly Bill 10-04-40-03 or as otherwise amended by the Band Assembly.
- (j) **Strategic Housing Plan** means the housing plan developed by the Commissioner of Community Development including but not limited to goals and objectives and an overview of the planned activities for the period.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 102.

§ 3. Housing Department

(a) A new structure known as the Housing Department is hereby established to administer the Mille Lacs Band of Ojibwe Indians housing programs and services.

(b) The Housing Department shall be under the supervision of the Commissioner of Community Development.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 103.

§ 4. Executive Director

A position known as the Executive Director of the Housing Department is hereby created. This position shall be responsible for the daily administration of housing programs and services to Band members. The Executive Director shall report directly to the Commissioner of Community Development.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 104

§ 5. Housing Board

(a) No more than ninety (90) days after passage of this Chapter, a newly formed Housing Board shall be created to act in an advisory capacity to assist the Housing Department and Commissioner of Community Development with housing matters and such Board shall have those powers as delegated in sub-section (b) of this section.

(b) Powers and Duties.

(1) To advise the Commissioner of Community Development and make recommendations on various housing matters relating to the Band's Housing vision and mission.

(2) To acknowledge Band members' housing needs and communicate concerns to the Executive Director of the Housing Department.

(3) To approve an annual Strategic Housing Plan with ratification by the Band Assembly.

(4) To ensure that the Housing Policies conform to the Band's Housing vision and mission and that Community Development and the Housing Department comply with the Housing Policies.

(5) To maintain a fair and equitable service level to all Band members.

(6) To approve home loans, renovation loans or other housing program loans that may be developed by the Housing Department.

(7) To approve foreclosures in circumstances where a mortgagor defaults on their housing loan for a period of more than six (6) months.

(8) To approve new Housing programs and Housing Policies developed by the Housing Department with ratification by the Band Assembly.

(9) To approve Housing Meeting Minutes from the previous meeting and forward a copy to Band Assembly within ten (10) business days.

(10) To approve any housing grants if such regulations require it.

(11) To approve the quarterly reports developed by the Commissioner of Community Development and the Housing Department.

(12) To maintain confidentiality of all housing client matters.

(13) To treat all Band members fairly and equally without regard to family relationships.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 105.

§ 6. Board Member Selection Process

(a) This section establishes the rules for selection of Housing Board members, the number of Board members to be appointed and the term length of each Board member. The rules are as follows:

(1) The Housing Board is hereby organized and designated as a subdivision of the Housing Department of the Mille Lacs Band of Ojibwe Indians.

(2) The Housing Board shall be composed of seven (7) persons.

(3) Each Housing Board member must be an enrolled Band member of the Mille Lacs Band of Ojibwe Indians and at least eighteen (18) years of age.

(4) No person shall be barred from serving on the Board because he or she is a tenant or homebuyer. However, such Board member shall not participate in or be present at any portion of a meeting concerning any matter that involves his or her individual rights, obligations or status as a tenant or homebuyer.

(5) The Chief Executive shall select two (2) individuals and the Speaker of the Assembly shall nominate one (1) of the two to the Band Assembly for confirmation to the Housing Board. This Housing Board member shall serve until June 30, 2007. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2007.

(6) The Speaker of the Assembly shall select two (2) Elders and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Housing Board member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.

(7) The District I Representative shall select two (2) individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2007. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2007.

(8) The District II Representative shall select two (2) individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.

(9) The District III Representative shall select two (2) individuals and the Chief Executive shall nominate one of the two to the Band Assembly for confirmation to the Housing Board. This Board Member shall serve until June 30, 2006. Thereafter, this position shall be eligible for appointment to a four (4) year term beginning on June 30, 2006.

(10) The Chief Executive and the Speaker of the Assembly shall each select two (2) persons from the At Large area and the Band Assembly shall confirm two (2) of the four (4) for appointment to the Housing Board. These Board members shall serve until June 30, 2005. Thereafter, these positions shall be eligible for appointment to a four (4) year term beginning on June 30, 2005.

(b) The nomination process established in this subsection shall apply to all future nominees who hold this position.

(c) If, for any reason, an elected official does not nominate a person in the manner set out hereinabove, that position shall be filled by nomination by the Chief Executive and Speaker of the Assembly. The Chief Executive and Speaker of the Assembly shall each nominate one (1) person from the pool where the vacancy occurs and the Band Assembly shall confirm one (1) person.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 106.
Band Ordinance 27-04, § 106.

Cross References

Recall of appointed officers, see 4 MLBSA § 15.

§ 7. Process to Fill Vacant Board Positions

(a) If, for any reason, a Board position becomes vacant, the elected official that originally nominated that person shall nominate a new person in the same manner to replace the vacant position for the remainder of that term. Thereafter, this position shall be filled in the manner set out above.

(b) If, for any reason, the elected official does not nominate a person within thirty (30) days of the vacancy, that position shall be filled by nomination by the Chief Executive and Speaker of the Assembly. The Chief Executive and Speaker of the Assembly shall each nominate one (1) person from the pool where the vacancy occurs and the Band Assembly shall confirm one (1) person.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 107.

§ 8. Officers

(a) The Housing Board shall select from its members one person to serve as Chairperson of the Board, one person to serve as Vice-Chairperson, and one person to serve as Secretary. In the absence of the Chairperson, the Vice-Chairperson shall preside over the meeting. In the absence of the Chairperson and Vice-Chairperson, the Secretary shall preside. The Secretary shall keep a complete and accurate record of all meetings and any actions taken by the Board.

(b) These offices shall be held for a two-year period beginning on June 30, 2004.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 108.

§ 9. Meetings

(a) The Housing Board shall meet at least one (1) time per month to attend to Housing Department business. If any Housing Board member is absent from three (3) consecutive meetings, they shall be removed from the Housing Board.

(b) The Housing Board members shall be paid a stipend for their services, but payment of such stipend shall be limited to two (2) meetings per month. If more than two meetings within a month are required to handle housing business, no stipend shall be paid although mileage expenses will be allowed.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 109.

§ 10. Quorum

A majority of the full Board, notwithstanding the existence of any vacancies, shall constitute a quorum for the transaction of business. No formal Board action shall be taken by a vote of less than a majority. A quorum is defined as four (4) members.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 110.

§ 11. Removal of Board Members

(a) A member of the Housing Board may be removed for misconduct of office, absence from three (3) consecutive meetings without cause, or neglect of duty, but only after notice and hearing before the Joint Session. The Commissioner of Community Development and the Executive Director shall submit in writing such reason for removal and submit the same to the Joint Session. The Joint Session shall hear the case and determine if valid reason exist to remove such Board member.

(b) The Board Member shall receive such notice of removal hearing at least ten (10) days prior to the hearing date.

(c) At any such hearing, the Board Member is entitled to be heard in person or through an attorney and to present witnesses on his or her behalf.

(d) A confidential record of any such hearing shall be kept for a period of seven (7) years.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 111.

§ 12. Housing Board Bylaws

The Housing Board shall operate according to bylaws established by them and the Commissioner of Community Development. The bylaws shall contain any operational requirements in order for the Board to carry out its powers and duties.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 112.

§ 13. Transfer of Ownership Interests

(a) All units owned by the Mille Lacs Band of Ojibwe Indians “Housing Authority” shall be transferred to the Mille Lacs Band of Ojibwe Indians “Housing Department.”

(b) All leases held by the Mille Lacs Band of Ojibwe Indians “Housing Authority” shall be transferred to the Mille Lacs Band of Ojibwe Indians “Housing Department.”

(c) Any land acquisition performed by the Mille Lacs Band of Ojibwe Indians Department of Natural Resources (“DNR”) that includes a house shall be leased to the Housing Department according to the following limitations:

- (1) restricted to residential use; and
- (2) follow the area zoning requirements for a residential dwelling.

Historical and Statutory Notes

Source:

Band Ordinance 18-04, § 113.

CHAPTER 2
NATIVE AMERICAN VETERAN
DIRECT LOAN PROGRAM

Section

- 101. Findings and determinations.
- 102. Application of chapter.
- 103. Purpose to provide additional remedies.
- 104. Public policy of band.
- 105. Definitions.
- 106. Priority.
- 107. Recording system.
- 108. Filing.
- 109. Log.
- 110. Public inspection and copying.
- 111. Leasehold mortgage foreclosure proceedings.
- 112. Service of process and procedures.
- 113. Cure of default.
- 114. Entry of judgment.
- 115. Unlawful detainer.
- 116. Procedures for service of notice.
- 117. Complaint and summons.
- 118. Service of summons and complaint.
- 119. Writ of Restitution.
- 120. Judgment.
- 121. Continuance in cases involving secretary.
- 122. Enforcement.

Historical and Statutory Notes

The Preamble of Ordinances 34-94 and 01-95 provide:

"The purpose of this act is to promote the general welfare of the Band by allowing for or increase in available housing. This act is intended to aid Mille Lacs Band Veterans in processing financing for the construction or purchase of single family residences on Trust lands within the jurisdiction of the Non-Removable Mille Lacs Band of Ojibwe Indians.

Ordinance 34-94 and Ordinance 01-95, §§ 15 to 17 provide:

"Section 15. Reservation of Right. The Band Assembly hereby fully reserves the right to alter, amend or repeal the provisions of the Chapter, and all rights and privileges granted or extended thereunder shall be subject to such right.

"Section 16. Sovereign Immunity. Nothing contained herein shall be construed as a waiver of sovereign immunity by the Mille Lacs Band of Ojibwe.

"Section 17. Severability. The Solicitor General or exterior legal counsel and the Court of Central Jurisdiction whichever is applicable, shall liberally construe the provisions of this Act so as to provide for the full force and effect of the purposes therein stated.

"Section 17.01. If any provisions of the Band Statute, or the application thereof, to any person, business corporation or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Band Statute which can be given effect without the invalid, the invalidity shall not affect other provisions or applications of this Band Statute which can be given effect without the invalid provisions or application and to this end, the provisions of this Band Statute are declared severable."

Cross References

Real estate mortgages, see 24 MLBSA § 401 et seq.

§ 101. Findings and determinations

(a) The Band Assembly hereby finds and determines that there is a history of inadequate housing for Band members and that adequate housing and related services are vital to the health and well being of all members of the Band.

(b) The Band Assembly hereby finds and determines that our Armed Service veterans made great sacrifices for our country, their communities and their families and are a valuable resources to the Band and that our veterans should have adequate housing and related services made available to them.

Historical and Statutory Notes

Source: Ordinance 34-94, § 1.
Ordinance 01-95, § 1.

§ 102. Application of chapter

This chapter prescribes procedures for the recording, priority and foreclosure of leasehold mortgages given to secure loans made by the United States Department of Veterans

Affairs under the Native American Veterans Direct Loan Program under Title 38 U.S.C. 3761 et seq.

Historical and Statutory Notes

Source: Ordinance 34-94, § 1.02.
Ordinance 01-95, § 1.02.

§ 103. Purpose to provide additional remedies

The purpose of this chapter is to provide remedies for the Veterans Affairs Loan Program and nothing herein contained shall alter the ultimate financial liability of the owner of tenant for repairs or maintenance of any building located on lands under the jurisdiction of the Band.

Historical and Statutory Notes

Source: Ordinance 34-94, § 19.
Ordinance 01-95, § 19.

§ 104. Public policy of band

Any provisions, whether oral or written, of any lease or other agreement whereby any provisions of this chapter are waived by a tenant is contrary to public policy and void.

Historical and Statutory Notes

Source: Ordinance 34-94, § 18.
Ordinance 01-95, § 18.

§ 105. Definitions

(a) "Band" shall refer to the Non-Removable Mille Lacs Band of the Mille Lacs Indian Reservation as defined in the Minnesota Chippewa Tribal Constitution and the statutes of the Non-Removable Mille Lacs Band.

(b) "Lease" shall mean the lease of trust property for which a Leasehold Mortgage, as defined in this section, has or will be given.

(c) "Leasehold Mortgage" shall mean the mortgage of a lease of trust property given to secure a loan made under the VA Native American Direct Loan Program and 38 U.S.C. 3761 et seq.

(d) "Leasehold Mortgage Foreclosure Proceeding" shall mean a proceeding in the Court of Central Jurisdiction:

(1) To foreclose the interest of the Mortgagor(s), and each person or entity claiming through the Mortgagor(s), in a Lease for which a Mortgage has been given under the VA Native American Direct Loan Program and 38 U.S.C. 3761 et seq.; and

(2) To assign such Lease to the Secretary or the Secretary's assignee.

(e) "Lessor" shall mean the beneficial or equitable owner of trust or otherwise restricted property under a Lease for which a Mortgage, as defined in this section, has been given, or the heir(s), successor(s), executor(s), administrator(s), or assign(s) of such Lessor.

(f) "Mortgagee" shall mean the mortgagee under any Leasehold Mortgage as defined in this section or the successor(s) interest of any such mortgagee, including the Secretary as defined in this section, or the Secretary's assignee under any such mortgage.

(g) "Mortgagor" shall mean any Mille Lacs Band member who has executed a Leasehold Mortgage as defined in this section, or any member heir(s), successor(s), executor(s), administrator(s) or assign(s) of the Mille Lacs Band or any member.

(h) "Nuisance" shall mean the maintenance on real property of a condition which:

(1) Unreasonably threatens the health or safety of the public or neighboring land users; or

(2) Unreasonably and substantially interferes with the ability of neighboring property users to enjoy the reasonable use and occupancy of their property.

(i) "Recording Clerk" shall mean the person designated by the Mille Lacs Band to perform the recording functions required by this chapter or any deputy or designee of such person.

(j) "Secretary" shall mean the Secretary of the United States Department of Veterans Affairs (VA) or designee.

(k) "Subordinate Lienholder" shall mean the holder of any lien, including a subsequent mortgage, perfected subsequent to the recording of a

Leasehold Mortgage under this chapter (except the Mille Lacs Band with respect to a claim for a tribal leasehold tax).

(l) "Tenant" shall mean any person who occupies real property under a lease, rental agreement or other agreement with a lessor as defined in this section.

(m) "Tribal Court" shall mean the Court of Central Jurisdiction as established by the laws of Mille Lacs Band of Ojibwe to exercise the powers and functions of a court of law.

(n) "Unlawful Detainer Action" shall be a suit brought before the Court of Central Jurisdiction to terminate a tenant's interest in real property and/or to evict any person from occupancy of real property.

(o) "Waste" is spoil or destruction by a tenant of land, buildings, gardens, trees or other improvements which result in substantial injury to the lessor's interest in the property.

(p) "Writ of Restitution" is an order of the Tribal Court:

(1) Restoring an owner or lessor or the Secretary to possession of real property and,

(2) Evicting a tenant or other occupant therefrom.

Historical and Statutory Notes

Source: Ordinance 34-94, §§ 1.03 to 1.18.
Ordinance 01-95, §§ 1.03 to 1.18.

§ 106. Priority

A Leasehold Mortgage recorded in accordance with the recording procedures set forth in this chapter shall have priority over any lien not perfected at the time of such recording and any subsequent lien or claim excepting a lien or claim arising from a tribal leasehold tax assessed after the recording of the mortgage. Nothing in this chapter shall prevent any person or entity from recording a Leasehold Mortgage in accordance with State law or from filing a Leasehold Mortgage with the Bureau of Indian Affairs.

Historical and Statutory Notes

Source: Ordinance 34-94, § 2.
Ordinance 01-95, § 2.

§ 107. Recording system

The Band Recording Clerk shall maintain in the Department of Natural Resources Real Estate Division a system for the recording of leasehold Mortgages and such other documents as the Band may designate by law or resolution.

Historical and Statutory Notes

Source: Ordinance 34-94, § 3.
Ordinance 01-95, § 3.

§ 108. Filing

(a) The Band Recording Clerk shall endorse upon any Leasehold Mortgage or other document received for recording:

(1) The date and time of receipt of the Leasehold Mortgage or other document; and

(2) The filing number, to be assigned by the Recording Clerk, which shall be a unique number for each Leasehold Mortgage or other document received; and

(3) The name of the Band Recording Clerk receiving the Leasehold Mortgage or document.

(b)(1) Upon completion of the above endorsements; the Tribal Recording Clerk shall make a true and correct copy of the Leasehold Mortgage or other document and shall certify the copy as follows:

MILLE LACS BAND OF OJIBWE

MILLE LACS RESERVATION: ss.

I certify that this is a true and correct copy of a document received for recording this date.

Given under my hand and seal this _____ day of _____ .

(SEAL)

Signature

Title

(2) The Band Recording Clerk shall maintain the copy in the records of the recording system and shall return the original of the Leasehold Mortgage or other document to the person or entity that presented the same for recording.

Historical and Statutory Notes

Source: Ordinance 34-94, §§ 3.01 to 3.03.
Ordinance 01-95, §§ 3.01 to 3.03.

§ 109. Log

The Band Recording Clerk shall also maintain a log of each Leasehold Mortgage or other document recorded in which there shall be entered:

- (a) The name(s) of the Mortgagor(s) of each Leasehold Mortgage, identified as such;
- (b) The name(s) of the Mortgagee(s) of each Leasehold Mortgage, identified as such;
- (c) The name(s) of the grantor(s), grantee(s), or other designation of each party named in any other documents;
- (d) The date and time of receipt;
- (e) The filing number assigned by the Band Recording Clerk; and
- (f) The name of the Band Recording Clerk receiving the Leasehold Mortgage or document.

Historical and Statutory Notes

Source: Ordinance 34-94, § 3.04.
Ordinance 01-95, § 3.04.

§ 110. Public inspection and copying

The certified copies of the Leasehold Mortgages and other documents and the log maintained by the Tribal Recording Clerk shall be made available for public inspection and copying.

Historical and Statutory Notes

Source: Ordinance 34-94, § 3.05.
Ordinance 01-95, § 3.05.

§ 111. Leasehold mortgage foreclosure proceedings

Upon the default of the Mortgagor(s) under a Leasehold Mortgage, the Secretary may commence a Leasehold Mortgage foreclosure proceeding in the Tribal Court by filing:

(a) A verified complaint:

(1) Naming the Mortgagee(s)¹ and each person or entity claiming through the Mortgage(s)² subsequent to the recording of the Leasehold Mortgage, including each Subordinate Lienholder (except the Band with respect to a claim for a tribal leasehold tax), as a defendant;

(2) Describing the property;

(3) Stating the facts concerning the execution of the Lease and the Leasehold Mortgage; the facts concerning the recording of the Leasehold Mortgage; the facts concerning the alleged default(s) of the Mortgagor(s); and such other facts as may be necessary to constitute a cause of action;

(4) Having appended as exhibits true and correct copies of each promissory note, Lease, Leasehold Mortgage, or assignment thereof relating to the property; and

(5) Including an allegation that all relevant requirements and conditions prescribed in (i) title 38 U.S.C. § 376 1 et seq., (ii) the regulations promulgated thereunder by the Secretary, and (iii) the provisions of the Lease, have, been complied with by the Secretary.

(b) A summons, issued as in other cases, requiring the Mortgagor(s) and each other defendant to appear for a trial upon the complaint on a date and time specified in the summons.

Historical and Statutory Notes

Source: Ordinance 34-94, § 4.
Ordinance 01-95, § 4.

¹ So in original. Probably should be "Mortgagor(s)".

² So in original. Probably should be "Mortgagor(s)".

§ 112. Service of process and procedures

The laws of the Band governing service of process and all other matters relating to the conduct of Court of Central Jurisdiction proceedings shall apply to any Leasehold Mortgage Foreclosure Proceeding pursuant to this chapter.

Historical and Statutory Notes

Source: Ordinance 34-94, § 5.
Ordinance 01-95, § 5.

Cross References

Procedure, judicial proceedings, see 24 MLBSA § 2001 et seq.
Real estate mortgages, see 21 MLBSA § 401 et seq.

§ 113. Cure of default

Prior to the entry of a judgment of foreclosure, any Mortgagor or any Subordinate Lienholder may cure the default(s) under the Leasehold Mortgage. Any Subordinate Lienholder who has cured a default shall thereafter have included in its lien the amount of payments made by such Subordinate Lienholder to cure the default(s), plus interest on such amounts at the rate stated in the note for the Leasehold Mortgage.

Historical and Statutory Notes

Source: Ordinance 34-94, § 6.
Ordinance 01-95, § 6.

§ 114. Entry of judgment

If the alleged default(s) have not been cured, and if the Court should find for the Secretary, the Court of Central Jurisdiction shall enter judgment:

- (a) Foreclosing the interest in the Lease of the Mortgagor(s) and each other defendant named in the complaint upon whom proper and timely service has been made, including each such Subordinate Lienholder; and
- (b) Assigning such Lease to the Secretary or the Secretary's assignee.

Historical and Statutory Notes

Source: Ordinance 34-94, § 7.

§ 115. Unlawful detainer

(a) The provisions of this section shall apply to all persons and property subject to the governing authority of the Mille Lacs Band as established by the Laws of the Non-Removable Mille Lacs Band.

(b) A tenant or other occupier of land shall be guilty of unlawful detainer if such person shall continue in occupancy of real property under any of the following situations:

(1) Without the requirement of any notice:

(A) After the expiration of the term of the lease or other agreement; or

(B) If such person has entered onto or remains on the real property of another without the permission of the owner and without having any substantial claim of a lease or title of the property; or

(C) After the Mille Lacs Housing Authority has terminated such person's tenancy pursuant to procedures providing such person a hearing before the Housing Authority involved; or

(D) After the interest of such person in a lease has been foreclosed in a leasehold mortgage foreclosure proceeding in the Tribal Court.

(2) After having received 30 days' notice, the tenant or occupier shall remain in possession of the property contrary to the terms of the notice as follows:

(A) When such person has received notice:

(i) That he or she is in default in the payment of rent; and

(ii) Requiring him or her, to either pay the rent or

surrender possession of the occupied property; and such person has remained in possession after receipt of such notice without either surrendering possession of the property or paying the rent; or

(B) When the lease of the property is for an indefinite time, with rent to be paid monthly or by some other period, and the lessor has given notice of termination of the tenancy at least 30 days prior to the end of such month or period; or

(C) When such person shall continue to fail to keep or perform any condition or covenant of the lease or agreement under which the property is held after he has been given notice to surrender the property; or

(D) When such person continues to commit or to permit waste upon or maintain a nuisance upon the occupied property after having been given notice, to either cease such waste or maintenance of nuisance or to surrender the property.

Historical and Statutory Notes

Source: Ordinance 34-94, § 8.
Ordinance 01-95, § 8.

Cross References

Forcible entry and unlawful detainer, see 21 MLBSA § 301 et seq.
Personal jurisdiction, Court of Central Jurisdiction, see 5 MLBSA § 113.

§ 116. Procedures for service of notice

(a) Notices required or authorized in 12 MLBSA § 115 shall be given in writing by either:

(1) Delivering a copy personally to the tenant or occupier or to any adult members of his or her family residing on the premises; or

(2) Posting said notice in a conspicuous place near the entrance to said premises, and by sending an additional copy to the tenant or occupier by certified mail, return receipt requested, properly addressed, postage prepaid.

(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 either of these two methods of service.

Historical and Statutory Notes

Source: Ordinance 34-94, § 9.
Ordinance 01-95, § 9,

§ 117. Complaint and summons

The owner of real property or lessor or Secretary shall commence an action for unlawful detainer by filing with the Court, in writing, the following documents:

(a) A complaint, signed by the owner, lessor, the Secretary, an agent, or attorney, stating:

(1) The facts on which he or she seeks to recover,

(2) Describing the property so that it can be identified with reasonable certainty; and

(3) Any claims for damages or compensation due from the persons to be evicted;

(b) A summons, issued as in other cases, requiring the defendants to appear for trial upon the complaint on a date and time specified in the summons. The trial date specified in the summons shall not be less than 20 nor more than 30 days from the date of service of the summons and complaint. The summons must notify the defendants that judgment will be taken against them in accordance with the terms of the complaint unless they file with the court an answer and appear for trial at the time, date and place specified in the summons.

Historical and Statutory Notes

Source: Ordinance 34-94, § 10.
Ordinance 01-95, § 10.

§ 118. Service of summons and complaint

A copy of the summons and complaint shall be served upon the defendants in the manner provided by the Mille Lacs Band Statute for service of process in civil matters.

Historical and Statutory Notes

Source: Ordinance 34-94, § 11.
Ordinance 01-95, § 11.

§ 119. Writ of Restitution

The Court of Central Jurisdiction shall enter a Writ of Restitution if:

- (a) Notice of suit and trial is given by service of summons and complaint in accordance with the procedures provided in this document; and
- (b) The Court of Central Jurisdiction shall find that the occupier of the real property is guilty of an act of unlawful detainer.

Historical and Statutory Notes

Source: Ordinance 34-94, § 12.
Ordinance 01-95, § 12.

§ 120. Judgment

- (a) Upon issuance of a Writ of Restitution the Court of Central Jurisdiction shall have the authority to enter against the defendants a judgment for the following:
- (1) back rent,
 - (2) unpaid utilities,
 - (3) charges due the Band, Indian Housing Authority, or land owner under any lease or occupancy agreement (not including a leasehold mortgage); and

(4) damages caused by the defendants to the property other than ordinary wear and tear.

(b) The Court of Central Jurisdiction shall have the authority to award to the prevailing party his costs and reasonable attorney's fees in bringing suit.

Historical and Statutory Notes

Source: Ordinance 34-94, § 12.021.
Ordinance 01-95, § 12.021.

§ 121. Continuance in cases involving secretary

Except by agreement of all parties, there shall be no continuances in the cases involving the Secretary which will interfere with the requirement that the Writ of Restitution in a case involving the Secretary be enforced not later than 60 days from the date of service of the summons and complaint.

Historical and Statutory Notes

Source: Ordinance 34-94, § 13.
Ordinance 01-95, § 13.

§ 122. Enforcement

Upon issuance of a Writ of Restitution by the Court of Central Jurisdiction law enforcement officers shall enforce the Writ of Restitution by evicting the defendants and their property from the premises which are unlawfully occupied. In all cases involving the Secretary, the Writ of Restitution shall be enforced not later than 60 days after the date of service of the summons and complaint.

Historical and Statutory Notes

Source: Ordinance 34-94, § 14.
Ordinance 01-95, § 14.