

# Housing Authority of the Sac and Fox Nation



## Collection and Evictions Policy

Approved by the Board of Commissioners of the Housing Authority of the Sac and Fox Nation on: August 5, 2019 by Resolution #2019-48

## **POLICY STATEMENT**

The Board of Commissioners of the Housing Authority of the Sac and Fox Nation (HASFN) recognizes that it is necessary to adopt and implement collection and eviction policies and procedures in order to operate as a property management business. The Board of Commissioners recognizes that the HASFN relies on the income generated from rent and homebuyer payments and other payments to maintain the property owned and managed by the HASFN and to fund the operations of the HASFN.

The purpose of this policy is to inform the residents and homebuyers of established guidelines for the collection of payments of rent, house payments, housing services, and work orders and other charges. The objectives of this policy are to collect the amounts owed to the HASFN to ensure the continuation of adequate housing services while providing for safety and well-being of residents along with promoting fairness through a due process and to provide procedures for eviction of residents who fail to pay amounts owed to the HASFN or who fail to comply with applicable law, HASFN policies, or any agreements by and between the resident and the HASFN. This policy is also intended as a means for HASFN to enforce other requirements residents are expected to comply with such as Admissions and Occupancy policies, rental and homebuyer agreements, payment agreements, homebuyer maintenance responsibilities, utility payments, etc.

For the purposes of this policy, rental and homeownership occupants and other families receiving HASFN services will be referred to as “residents”. This policy shall apply to residents who have entered into a lease, homeownership agreement, occupant agreement, payment agreement, repayment agreement, contract; or any other type of agreement with the HASFN. In this policy, days will refer to calendar days except noted otherwise.

This policy replaces and supersedes any and all prior policies of the HASFN on the subject of collections and evictions. This policy is effective as of the date of adoption.

## **I. PAYMENTS**

### **1) Due Date**

- a) Rent and homebuyer payments are due on or before the first day of each calendar month.
- b) If rent or home buyer payments are not paid in full by the 20<sup>th</sup> day of the calendar month in which they are due, or if the account has any unpaid balance at the end of any month, a late fee of twenty (\$20) shall be assessed.
- c) If a renter or homebuyer has entered into a Repayment Agreement as described in II.2.a, late fees shall not accrue on the amount included in the repayment plan.

### **2) Where and How to Make Payments**

- a) Rent and homebuyer payments may be made at the HASFN administrative office or night drop box located at 201 N. Harrison, Shawnee, Oklahoma or sent by mail to the HASFN, P.O. Box 1252, Shawnee, Oklahoma 74802.
- b) Payments shall be made by cashier's checks, money orders or personal checks. Cash is not accepted by the HASFN. If a personal check from a person's bank account other than the resident is used to pay the rent, homebuyer payment, or other payment for the resident, the name of resident for whom the payment is being made shall be written in the memo line of the check.
- c) Payment can be made by credit/debit card presented to the HASFN office located at 201 N. Harrison, Shawnee, Oklahoma or by calling the HASFN office, between the hours of 8:00am to 4:30pm, Monday through Friday, provided that the HASFN maintains an electronic system for processing of credit/debit cards payments.
- d) The amount of monthly rent or homebuyer payments is set forth in each resident's lease, homebuyer agreement, or other agreement, as may be modified from time to time by periodic recertification.
- e) Unless the resident specifies in writing with each payment how to apply payments to the resident's account, resident payments will be applied first to rent and/or homebuyer payments for the current month, second to administrative fees for the current month, third to maintenance/work order repayment charges for the current month, fourth to other repayment charges for the current month, and thereafter to any other charges or fees for the current month. If the resident's payment exceeds the total amount of the current monthly amounts due as described in the preceding

sentence, the balance of the excess will be applied to any past due amounts, or, if the resident has no past due amounts, the balance of the excess will be entered into the resident's account as a credit for use against the next month's charges.

### 3) Partial Payments

- a) When a resident presents credible evidence that clearly shows an inability to make full payment for the current month, the HASFN may accept partial payment upon approval of the Executive Director, with such approval being subject to the sole discretion of the Executive Director. However, if the resident does not pay all current month, the resident's account will be considered delinquent.

### 4) Zero Income

- a) **Rental:** Participant must have household income sufficient to meet any and all financial obligations of the program at all times. If the Participant experiences a verified loss of income that would cause the Participant's monthly rent payment to fall below \$25.00, the rent may decrease per month for a period of ninety (90) days. During this 90-day period, the Participant will be required to attend monthly meetings with HASFN staff in order to review the Participant's income status and his/her efforts to increase household income. If the Participant is unable to increase his/her income during this period, participation in the program shall be terminated thirty (30) days from the expiration of the 90-day period. If such income loss is reported by a participant more than once in a 12 month period, this constitutes grounds for termination of participation in the program.
- b) **Homebuyer:** Participants must have income sufficient to meet any and all financial obligations of the program at all times, and cannot incur a material loss of earned or unearned income for a period of more than sixty (60) consecutive days. During this 60-day period, the Participant will be required to attend monthly meetings with HASFN staff in order to review the Participant's income status and his/her efforts to increase household income. If material income loss is reported by participant more than once in a twelve (12) month period, this constitutes grounds for termination of participation in the program. **For the purpose of this section, "material" means that the loss of income is significant enough to cause the Participant's base monthly rent to equal less than \$125.00 per month.**

## II. COLLECTIONS

### 1) **Timetable for Notices Applicable to Rental and Homeownership Programs**

- a) **First Notice:** If rental and homebuyer payments, or repayment agreement installments are not paid by the twentieth (20<sup>th</sup>) day of each calendar month, or if payment agreement installments are not paid by the date due pursuant to the terms of the payment agreement or if the resident is found not to be in compliance with any other provisions of the resident's Lease, Occupant Agreement, Homebuyer Agreement, other agreement, applicable law, or policies of the HASFN, the HASFN shall send a Notice of Delinquency/Non-Compliance by regular mail. This notice will contain the following:
- i. The date of notice.
  - ii. In Notices of Delinquency for Non-Payment, the date the rent or homebuyer payment and/or other payments or charges were due.
  - iii. In Notices of Delinquency for Non-Payment, a statement of the total amount owed to the HASFN, with an itemized list of charges comprising the total amount due, including but not limited to any late fees assessed.
  - iv. In Notices of Delinquency for Non-Payment, a statement inviting and encouraging residents to negotiate Payment Agreements for delinquent amounts of rents or homebuyer payments.
  - v. If the Notice is being sent for Non-Compliance issues other than non-payment, the Notice of Non-Compliance shall describe how the resident is not in compliance with the Lease, Occupant Agreement, Homebuyer Agreement, other agreement, applicable law, or policies of the HASFN. The reasons may include, but are not limited to, violating the terms of the Lease or Agreement, violating HASFN policies, not complying with the recertification or income verification requirements, conducting criminal activity, etc. The Notice of Non-Compliance shall prescribe the measures the resident must take in order to resolve the non-compliance and shall prescribe a period in which the resident must cure the non-compliance and shall specify a date upon which HASFN officials will inspect the resident or examine other relevant materials to verify compliance. If non-compliance is not resolved within the prescribed period, a Final Notice of Non-Compliance shall be issued to the resident.
- b) **Final Notice:** If rental and homebuyer payments, or other payments are not paid by the last day of the calendar month following the calendar

month in which the First Notice of Delinquency for Non-Payment was issued or if the resident has not fully resolved any non-compliance issues identified in the First Notice of Non-Compliance with the time period prescribed by such Notice, the HASFN shall send a Final Notice of Delinquency/Non-Compliance by regular mail and certified mail. This notice will contain the following:

- i. The date of notice.
- ii. The date the rental payments, homebuyer payments or to other charges were due.
- iii. In Notices of Delinquency for Non-Payment, the date the rent or homebuyer payment and/or other payments or charges were due.
- iv. The date the rental or homebuyer payments or other charges must be paid in full to avoid further collection action, agreement termination, and/or eviction.
- v. If the Final Notice is being sent for non-compliance issues other than non-payment, the Notice shall describe why the resident is not in compliance with the Lease, Occupant Agreement, Homebuyer Agreement, other agreement, applicable law, or policies of the HASFN.

c) In the HASFN **rental programs**, if rental payment or other payments due are not paid by the date specified in the Final Notice of Delinquency or if the resident has not complied with any other requirement described in the Final Notice of Non-Compliance by the date specified in such Notice, the HASFN shall send the resident a fourteen day Notice of Termination by regular and certified mail. This notice shall contain the following:

- i. The reason for termination.
- ii. A fourteen (14) day period from the date of mailing of the Notice during which the resident will be allowed to respond to the HASFN, in writing or in person, regarding the reason for termination pursuant to the HASFN Grievance Policy.
- iii. A copy of the HASFN Grievance Policy.
- iv. A statement notifying the resident that he/she is permitted to be represented or accompanied by a person of his/her choice at any hearing held pursuant to the Grievance Policy.
- v. If within the fourteen (14) days after the date of mailing of the Notice of Termination, the resident presents assurance or evidence satisfactory to the HASFN the Notice of Termination may be rescinded or extended on a case by case basis to be determined by the HASFN's Executive Director in the Executive Director's sole

discretion. Unless, notice is such a rescinded or extended, the Lease Agreement shall terminate on the fourteenth (14<sup>th</sup>) day after the date of mailing of the Notice.

- vi. If the resident does not respond within the fourteen (day) period, the HASFN will proceed with proper legal actions necessary for collection and/or eviction. The HASFN's designated attorney will file action against the resident in the Sac and Fox Nation Tribal Court.
- vii. The resident of the rental unit shall be responsible for all rental payment, utility payments, and any other charges associated with occupying the rental unit until such time as the resident vacates the unit. Rental charges will be prorated on a daily basis.

d) In the HASFN's **Homeownership Program**, if homebuyer payments or other payments due are not paid by the date specified in the Final Notice of Delinquency, or if the resident has not complied with other requirements described in the Final Notice of Non-Compliance by the date specified in such Notice, the HASFN shall send the homebuyer a thirty (30) day Notice of Termination of the Lease Option Agreement by certified and regular mail. The notice shall contain the following:

- i. The reason for termination.
- ii. A 30 day period from the date of mailing of the Notice during which the homebuyer will be allowed to respond to the HASFN in writing or in person, regarding the reason for termination, pursuant to the HASFN Grievance Policy.
- iii. A copy of the HASFN Grievance Policy.
- iv. A statement notifying the resident that he/she is permitted to be represented or accompanied by a person or his/her choice at any hearing held pursuant to the Grievance Policy.
- v. If within 30 days after the date of mailing of the Notice of Termination, the homebuyer has extenuating circumstance and presents assurance or evidence satisfactory to the HASFN, the Notice of Termination may be rescinded or extended on a case by case basis to be determined by the HASFN Executive Director in the Executive Director's sole discretion. Unless the Notice of Termination is rescinded or extended, the agreement shall terminate on the 30<sup>th</sup> day after the date of mailing of the Notice.
- vi. The resident of the homeowner unit shall be responsible for all homebuyer payments, utility payments, and any other charges associated with occupying the unit until such time as the resident vacates the unit. Homebuyer charges will be prorated on a daily basis.



**vii.** If the homebuyer does not respond within the 30 day period, the HASFN will proceed with the proper legal actions necessary for collection and/or eviction. The HASFN's designated attorney will file action against the resident in the Sac and Fox Nation Tribal Court.

**e)** When action is filed in court against a resident in either the rental program or homeownership program, the request for relief shall include at minimum the following:

**i.** When the resident is delinquent, monetary relief in the amount due and owing to the HASFN.

**ii.** Legal expenses and filing fees

**iii.** Cost of repairs to the unit

**iv.** Immediate possession of the property by the HASFN.

**f)** When action is filed in court against a resident in either the rental program or homeownership program, the request for relief may include the following:

**i.** Lost income for the time the unit is unoccupied beyond the date of termination.

**ii.** When the resident is non-compliant, injunctive relief to bring the resident into compliance.

## **2) Collection or Non-Compliance Remedies**

**a)** Residents with delinquent accounts are encouraged to enter into payment agreements for payment of their delinquent account. Residents, who are non-compliant with their Lease, Homebuyer Agreement, Occupant Agreement, other agreement, applicable law, or policies of the HASFN, are encouraged to enter into compliance agreement to become in compliance with requirement of such. Subject to the provisions of the Policy, the HASFN's Executive Director may negotiate a payment agreement or compliance agreement, as applicable, with the resident as an alternative to termination. Negotiated agreements must be in writing and signed by both the HASFN Executive Director and the resident. Payment agreements will be on a short term basis not to exceed the six calendar months for payment of total delinquent amount due. Compliance agreement will be on a short-term basis not to exceed three months for coming into full compliance. Payment agreements and compliance agreements may be tailored to an individual resident's situation in the sole discretion of the Executive Director. All payment agreements will include acknowledgement of the amount owed, the terms of repayment including



the date, amount, and method of payment and a default clause in the event the payment agreement is breached. All compliance agreements will include an acknowledgement of non-compliance and a default clause in the event the compliance agreement is breached. Payment agreements and compliance agreements will be signed by the head of household or spouse and the HASFN Executive Director. If the delinquent or non-compliant resident is an employee or commissioner of the HASFN, the Chairman of the HASFN Board of Commissioners shall sign the payment or compliance agreements on behalf of the HASFN. If a resident presents credible evidence of hardship that caused or may cause a breach of agreement, the Executive Director of the HASFN will have discretionary authority to renegotiate, amend, or reconsider the agreement. If prior agreements with the resident have failed, the Executive Director of HASFN in his or her sole discretion may choose not to reconsider the agreement with the resident. **Residents shall not be permitted to enter into more than one payment agreement or more than one compliance agreement per twelve (12) month period.** In the event a resident is both delinquent and non-compliant, both a payment agreement and compliance agreement must be negotiated. In such cases, a breach of either the payment agreement or compliance agreement will trigger the pursuit of legal action by the HASFN.

- i. Should a resident default or violate the terms of his/her payment agreement or compliance agreement with the HASFN, the resident shall be given a Notice of Termination and if the total delinquent amount is not paid in thirty (30) calendar days from the date of the Final Notice and/or the reasons for non-compliance are not corrected, the HASFN shall proceed with proper legal action, for eviction and collection of monetary amounts for delinquent accounts or damages to property.
- ii. Payment agreements may be executed for payment of delinquent amounts owed by residents and amounts of costs of damages or repairs to unit caused by the residents who have vacated their HASFN units, at the sole discretion of the HASFN Executive Director.
- iii. Failure to make the required monthly payments and/or breach of subsequent payment agreements and termination of the resident's lease/homebuyer agreements or other agreements could result in permanent loss of eligibility for future services or benefits offered by the HASFN. If a terminated resident desires to apply for HASFN services in the future, the terminated resident must make a special application to the Board of Commissioners and must prove to the

satisfaction of the Board of Commissioners, at the Board of Commissioners' sole discretion, that the terminated resident has paid in full all amounts due to the HASFN, including delinquent account amounts and amounts of cost of damages and repairs caused by the terminated resident to HASFN property, and that the terminated resident possesses the responsibility required to participate in the HASFN's service programs.

- iv.** Residents with delinquent accounts will be referred to appropriate financial management counseling, if available, and will be provided any other available information that will facilitate the prompt payment of their delinquent accounts. The HASFN may schedule a financial management counseling session for the resident at a specified time and location during the period of account delinquency. Attendance and participation shall be required. The HASFN shall require the resident to sign a statement documenting attendance and commitment by the resident to improve their personal financial management skills. If a resident's account is delinquent more than three times during a twelve month period, the resident will automatically be required to complete a financial management session, if a session is available.
- v.** At the sole discretion of the HASFN Executive Director, full payment of delinquent rent or homebuyer payments, including any current amounts due, any court costs, filing fees service of process fees, legal fees and costs of damage to property, may be accepted and collection and/or eviction proceedings stopped.
- vi.** When residents vacate a HASFN unit, a statement of any balance due will be promptly sent to the vacated resident after the unit has been vacated and inspected by the HASFN. If the amount is not paid in full or arrangements have not been made within thirty (30) of the date of the statement, the account will be turned over the HASFN's designated legal counsel for collection action.
- vii.** A delinquent resident participating in the HASFN Mutual Help Homeownership Program (1937 Act Units) may apply for the use of the Monthly Equity Payment Account (MEPA) to pay for delinquent homeownership payments, other payments, and administrative charges if there is a sufficient amount in the respective MEPA account. Use of MEPA funds for such purpose must be requested and approved by the Board of Commissioners. Application for MEPA use shall be limited to a one time only use and shall be limited to an amount not to exceed five hundred dollars (\$500) to pay for delinquent amounts owed.

### 3) Court Action

- a) After the complaint is filed and summons is served, the defendant (delinquent resident), in sole discretion of the HASFN, may arrange for settlement of the claim. The plaintiff, HASFN, will inform the court that a settlement has been reached if agreement has been made to resolve the outstanding amount and all delinquent amounts have been paid in full by residents to the HASFN within thirty (30) days of the date of the settlement agreement. The HASFN will include in the settlement agreement any and all amounts included HASFN's request for relief in the complaint. The settlement agreement shall include language that in the event the defendant's breach the agreement, the case shall be refiled for eviction. Only one settlement agreement shall be allowed in the discretion of the HASFN per resident during the lifetime of the resident's tenancy in a HASFN unit. Settlement agreements are subject to approval by the Board of Commissioners. However, the Board of Commissioners may delegate settlement authority to the Executive Director in writing.
- b) The HASFN shall reserve the right to seek resolution of the case and settlement prior to the court hearing and final ruling.
- c) Once the Court issues an order of eviction, a copy shall be hand-delivered (if possible) to the resident by the appropriate law enforcement officials. If hand delivery to the resident is not possible, the order shall be posted upon an entry door to the HASFN unit occupied by the resident. The order shall specify the date for the resident to be evicted. The HASFN shall monitor the unit and arrange to secure the unit (changing locks, boarding up the windows or doors, etc.) on the date of the eviction set forth in the order. The delinquent account shall remain on the HASFN's records until the account is paid in full or until the HASFN Board of Commissioners authorizes removal of the account from the HASFN financial books. The HASFN reserves the right to pursue any lawful action necessary to collect judgment.
- d) If a resident refuses to vacate a unit by the specified date in the Court Order, the HASFN will seek appropriate relief from the Court including but not limited to, writ of assistance to direct law enforcement to assist with eviction of the resident and removal of the resident's possessions from the HASFN property. The HASFN employees or members of the governing body shall never attempt to forcibly evict a resident.
- e) If a resident moves out after notification of termination and makes no attempt to settle the outstanding amount, the HASFN shall consider the unit abandoned, despite any abandonment provisions described by other policies of the HASFN, and refer the case to its designed legal counsel for

filing in the Sac and Fox Tribal Court for collections. The HASFN shall make every attempt to collect and shall continue to do so after issuance of the Court Order for payment.

- f) If a resident fails to make payments due to the HASFN pursuant to any payment agreement or court order, the HASFN may report the resident's delinquencies to accredited credit bureaus.
- g) It is the responsibility of the evicted resident to remove all personal property from the unit within seven (7) days of the date of eviction. Upon the date of eviction, personal property may be removed only under the supervision of a designated HASFN employee or a law enforcement officer, depending upon the circumstances of the eviction and the Court Order for eviction. If the resident fails to remove all personal property from the unit within seven (7) days of the date of eviction by reasonable attempts by the HASFN, the HASFN shall remove and claim the personal items as HASFN property. Any disposal of the property shall be subject to the HASFN Excess Property Disposal Policy and Procedures.

#### **4) Returned Check Procedure**

- a) Any payments received from a homebuyer or renter in the form of a personal check is returned to the HASFN due to insufficient funds, the HASFN shall notify the homebuyer/renter of the returned check. The homebuyer/renter shall have seven (7) business days to pay for the amount of the check and a **\$35.00 service fee**. Said payment of the returned check shall be made by Cashier's Check or Money Order.
- b) If a personal check is returned for insufficient funds, the HASFN will not accept payment by personal checks from the resident for a twelve (12) month period following the date the HASFN received notice of the insufficiency of funds. All future payments returned for insufficiency will result in the termination of acceptance of checks for payments; and thereafter, all payments will be required to be made by Cashier's Check or Money Orders.
- c) If a personal check is returned due to a "Stop Payment," or "Account Closed," such check shall be considered a breach of the homebuyer or rental agreement by the homebuyer/renter and the HASFN; may at its discretion, choose to terminate the homebuyer or rental agreement and seek immediate eviction of the homebuyer/renter.
- d) Returned checks transferred to District Attorney: Any check that is returned to the HASFN for insufficient funds and is not picked up by the homebuyer or renter within the time prescribed, and any check that is returned due to "Stop Payment" or "Account Closed" shall be presented to

the District Attorney in the appropriate jurisdiction for collection and/or prosecution.

- e) Fraudulent items: If a homebuyer or renter uses any fraudulent means of tendering a payment to the HASFN, such fraudulent act shall be considered a breach of the Homebuyer or Rental Agreement by the homebuyer/renter and HASFN at its discretion may terminate the Agreement and seek immediate eviction of the homebuyer/renter

**5) Immediate Termination of Homebuyer and/or Rental Agreement**

- a) Upon notification of any credible evidence that any illegal and/or drug activity has taken place at a homebuyer's or renter's residence, and/or upon any plea of guilty, nolo contendere "no contest" or any other plea which could lead to conviction or any conviction for drug related criminal activity, violent felony, sex offense or other felony convictions of any homebuyer, renter, and/or occupant, shall be grounds for immediate termination of the homebuyer and/or rental agreement and eviction proceedings will commence immediately.