

**TITLE 6 – TRIBAL ASSISTANCE PROGRAMS
PART III – HOUSING ASSISTANCE
CHAPTER 3-1 – HOUSING ASSISTANCE PROGRAM**

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TITLE 6 – TRIBAL ASSISTANCE PROGRAMS
PART III – HOUSING ASSISTANCE
CHAPTER 3-1 – HOUSING ASSISTANCE PROGRAM

Legislative History: Passed by Tribal Council on December 7, 2000, Home Ownership & Mortgage Settlement Act of 2000 (Subchapter A)

Passed by Tribal Council on November 8, 2001 by Resolution No. C11-188-01, Mortgage Assistance Act of 2001(Subchapter B)

Recodified on August 9, 2006 by Resolution No. C08-313-06.

SUBCHAPTER A HOME OWNERSHIP AND MORTGAGE SETTLEMENT ACT OF 2000

Section 10 Findings (6 PYTC § 3-1-10)

Based upon numerous concerns received by the Tribal Council from members of the Tribe participating in the Mutual Help and Occupancy program (“MHOA Program”), the Tribal Council finds as of September 30, 2000:

- (A) There are approximately 380 Members of the Tribe currently participating in the MHOA Program (the “MHOA Potential Homeowners”):
- (B) During the time the MHOA Program has been available, the interest rate and the time period over which the MHOA Potential Homeowner’s obligation was to be paid (the “Terms”) has changed on three occasions;
- (C) The changes in the MHOA Program were approved and accepted by Tribal Council pursuant to its Resolution 92-5 dated February 18, 1992 (interest rate), and Resolutions 1996-16 through 1996-19 dated May 28, 1996 (term of MHOA Potential Homeowners obligation);
- (D) The changes in the program provided for substantial benefit to each MHOA Potential Homeowner;
- (E) Although the Tribal Council accepted and approved the changes and the Pascua Yaqui Housing Authority (the “Housing Authority”) knew of the changes and the approval by the Tribal Council, there is some confusion as to whether the most beneficial terms were applied to all MHOA Potential Homeowners;
- (F) On December 14, 1999 by Resolution No. C12-11-99 the Chairman of the Tribal Council was authorized to direct the Housing Department to begin conveyance to qualifying MHOA Potential Homeowners. The Resolution also approved \$217,467.69 in refunds to MHOA Potential Homeowners for over payments;
- (G) The attempts to resolve the problems were incomplete and may not have been completely implemented;
- (H) There is no evidence that any homes have been conveyed and/or any refunds given;
- (I) On February 15, 2000, the United States Department of Housing and Urban Affairs, Southwest Office of Native American Programs authorized a credit in the amount of \$1,500.00 known as the Tribal Home-Site Credit (the “Credit”) for each MHOA Potential Homeowner;
- (J) The rules governing the credit allowed the credit to be applied in a number of ways, one of which appears to be more beneficial to the MHOA Potential Homeowners;

- (K) The MHOA Program requires monthly administration fees (the “Administration Fees”);
- (L) Certain members of the Tribe who were participating in the MHOA Program also participated in another program known as the Monthly Equity Payment Account (“MEPA”);
- (M) The MEPA Program has been administered in such a manner that unnecessarily delayed MHOA Potential Homeowners in satisfying their obligations and obtaining title to their homes;
- (N) The terms applicable to each potential homeowner, the manner in which the MEPA and the Credit are applied and the amount of the Fees has a substantial impact on the date a MHOA Potential Homeowner is eligible to obtain transfer of his or her home (the “Eligibility Date”);
- (O) Certain MHOA Potential Homeowners have satisfied their obligations under the MHOA Program; however, they have not received title to their homes. In certain cases, those MHOA Potential Homeowners have paid more than what was required and are due refunds;
- (P) The terms of the MHOA Program that are most favorable to the MHOA Potential Homeowners should be applied to each MHOA Potential Homeowner;
- (Q) The credit should be applied in a manner that is most beneficial to the MHOA Potential Homeowner;
- (R) The MEPA Program should be administered in a manner that is most beneficial to the MHOA Potential Homeowners;
- (S) If: (i) the Terms of the MHOA Program that are most favorable to the MHOA Potential Homeowners are applied; (ii) the credit is applied in a manner that is most beneficial to the MHOA Potential Homeowners; and (iii) the MEPA Program is administered in a manner that are most beneficial to the MHOA Potential Homeowners; then almost all of the MHOA Potential Homeowners have satisfied their obligations under the MHOA Programs and are eligible to receive titles to their homes. In addition, under these terms, many of the MHOA Potential Homeowners are due refunds;
- (T) Under the terms set forth above, certain MHOA Potential Homeowners are eligible for transfer of their homes but are not owed a refund;
- (U) The amounts due from those MHOA Potential Homeowners who are not owed refunds are insubstantial and should be forgiven;
- (V) The fees paid by all MHOA Potential Homeowners since their respective eligibility dates as determined under the most favorable terms should be refunded;
- (W) Provided that they agree to the calculations, all MHOA Potential Homeowners should be compensated for the time the Tribe has been in possession of their respective overpayments and for the Tribe’s delay in delivering title to the homes;
- (X) The amounts the MHOA Potential Homeowners are due should be refunded as soon as possible;
- (Y) Title to their respective homes should be conveyed to those MHOA Potential Homeowners who have reached their respective eligibility dates as soon as possible; and
- (Z) The Tribe should establish a system of conveying title to real property, registering the ownership thereof and encumbering such ownership to secure the payment and/or performance of obligations of the owner.

Section 20 Consultant's Report (6 PYTC § 3-1-20)

The summary of finding submitted by Two Degrees dated November 30, 2000 (the "Consultant's Report") is hereby approved and accepted, provided, however, the Consultant's Report shall be subject to modification and revision in the event facts or circumstances are discovered that would cause the information in the Consultant's Report to be determined to be inaccurate.

Section 30 Earlier Resolutions (6 PYTC § 3-1-30)

To the extent necessary to carry out the provisions of this Act, all earlier actions taken by the Tribal Council are hereby amended.

Section 40 Terms (6 PYTC § 3-1-40)

All MHOA obligations are hereby confirmed to provide for 0% interest and monthly payments over a period of 15 years from and after the date of execution of the MHOA Agreement by the MHOA Potential Homeowner (the "Date of Origination"). All MHOA Agreements shall be amended to reflect this change.

Section 50 Books and Records (6 PYTC § 3-1-50)

From and after the effective date of this Act, the appropriate books and records of the Tribe and any department thereof shall be changed to reflect the terms as set forth herein.

Section 60 Administrative Fees (6 PYTC § 3-1-60)

- (A) All administrative fees paid by a MHOA Potential Homeowner after the MHOA Potential Homeowner's Eligibility Date shall be refunded to the Potential Homeowner.
- (B) The Chairman is directed to research the termination or reduction of administrative fees for all MHOA Potential Homeowners.

Section 70 MEPA (6 PYTC § 3-1-70)

To the greatest extent legally possible, all MEPA obligations are to be calculated and administered separate from all MHOA obligations, in a manner that does not affect the rights of any MHOA Potential Homeowner and maximizes the benefit to the MEPA participant.

Section 80 Credit (6 PYTC § 3-1-80)

All MHOA obligations are to be calculated after applying the credit as of the date of origination.

Section 90 Refunds (6 PYTC § 3-1-90)

In exchange for a MHOA Potential Homeowner's agreeing to completely resolve the matter regarding transfer of title to the MHOA Participant, the MHOA Potential Homeowners shall receive refunds of their respective over-payments as set forth in the Consultant's Report, which report shall be up-dated as necessary (the "Refunds").

Section 100 Evidence of Transfer of Title (6 PYTC § 3-1-100)

As soon as possible after approval of this Act by the Tribal Council, the Attorney General of the Tribe shall prepare and submit to the Tribal Council for its approval, a form of document evidencing the transfer of title to real property on the Reservation.

Section 110 Commission (6 PYTC § 3-1-110)

- (A) A commission known as the Settlement Commission (the “Commission”) is hereby established to explain the process and oversee: (i) the transfer of title to the MHOA Potential Homeowners; (ii) the payment of refunds, interest, and compensation (collectively, “Payments”); and (iii) the execution of any and all documents needed to completely resolve the matter.
- (B) The Commission shall be made up of five members of the Tribe appointed by the Chairman of the Tribal Council.
- (C) The Chairman of the Tribal Council shall appoint the Chairman of the commission who shall be responsible for the conduct of the day-to-day operation of the Commission.
- (D) The Commission shall contact Potential Homeowners who have reached their Eligibility Date as soon as possible in writing notifying them of their eligibility to receive conveyance of their home (the “Eligibility Notice”.)
- (E) The Commission shall commence meeting with the MHOA Potential Homeowners as soon as possible to discuss the transfer of homes to Potential Homeowners, disburse Payments and obtain execution of such other and further documents and instruments as may be deemed necessary by the Attorney General of the Tribe to resolve the matter completely.
- (F) As soon as possible, the Commission shall deliver the evidence of title to the potential homeowner.
- (G) All meetings between the Commission and the MHOA Potential Homeowners shall be completed and all titles transferred and compensation paid by February 15, 2001.
- (H) For their services on the Commission, Members of the Commission, who are not also members of the Tribal Council, shall receive an amount to be determined by the Chairman of the Tribal Council after consultation with the Tribal Council.
- (I) In the event that the potential homeowner has not agreed to the refund and/or the transfer of title to his or her home on or before the latter of: (i) six months after receipt of the Notice of Eligibility; or (ii) six months after the first meeting between the potential homeowner and the Commission, the potential homeowner shall be conclusively deemed to have agreed to the transfer and the refund unless the potential homeowner has filed an appeal with the Tribal Court.

Section 120 Transfer of Title (6 PYTC § 3-1-120)

The Chairman of the Tribal Council is authorized to execute and deliver any and all documents necessary to: (i) transfer title to the respective homes to the MHOA Potential Homeowners who have reached their eligibility date; and (ii) resolve the matter regarding the MHOA Potential Homeowners completely.

Section 130 Compensation (6 PYTC § 3-1-130)

In recognition of the delay in transferring title to the MHOA Potential Homeowners and in consideration for an MHOA Potential Homeowner’s agreement to resolve the matter completely, the Tribe shall pay compensation calculated at the rate of 10% per annum, compounded on a monthly basis since the potential homeowner’s eligibility date. The compensation shall be paid to the applicable MHOA Potential Homeowners either at the time of delivery of the evidence of title to their respective home or the execution by the MHOA Potential Homeowner of any and all documents resolving the matter completely.

Section 140 Recording System (6 PYTC § 3-1-140)

As soon as possible after approval of this Act by the Tribal Council, the Office of the Attorney General of the Tribe shall prepare and submit to the Council for its approval, a system for conveying title to real property, registering the ownership thereof and encumbering such ownership to secure the payment and/or performance of obligations of the owner and giving public notice of other documents and/or instruments.

Section 150 Present and Future MHOA Potential Homeowners (6 PYTC § 3-1-150)

The Chairman of the Tribal Council is directed on a continuing basis to review the arrangements with all current and future MHOA Potential Homeowners who have not reached their respective eligibility date, utilizing such professional assistance as he or she may deem necessary. The Chairman of the Tribal Council shall periodically submit a report to the Tribal Council regarding any changes in the arrangement with MHOA Potential Homeowners that will maximize the benefit available to the MHOA Potential Homeowners.

Section 160 Further Authorization (6 PYTC § 3-1-160)

The Chairman of the Tribal Council is authorized and directed to do and accomplish all things necessary and desirable to effectuate the purposes of this Act.

SUBCHAPTER B MORTGAGE ASSISTANCE ACT OF 2001

Section 170 Purpose (6 PYTC § 3-1-170)

The Council of the Pascua Yaqui Tribe has found that it is in the best interest of the Tribe to provide mortgage assistance to individual members of the Tribe domiciled on fee land in traditional, Yaqui and off-Reservation communities in Arizona.

Section 180 Scope (6 PYTC § 3-1-180)

The provisions of this Act shall apply *only* if the Applicant meets all of the following requirements:

- (A) The applicant must be an enrolled Member of the Tribe;
- (B) The applicant must be 18 years of age or older;
- (C) The Applicant must be the recorded owner of the residence;
- (D) The property must be located off of the Reservation; and
- (E) The property must be in one of the following traditional Yaqui communities:
 - (1) Barrio Libre
 - (2) Old Pascua
 - (3) Yoem Pueblo
 - (4) Guadalupe
 - (5) Penjamo
 - (6) Hightown

- (F) There must be an existing mortgage on the residence with a delinquent balance that put the residence in jeopardy of foreclosure. The Land Office and the Tribal Council may consider the aggregate balance of arrearage when determining eligibility under this Act.
- (G) The applicant must provide a statement of the circumstance leading to the default.

Section 190 Administration (6 PYTC § 3-1-190)

Administration of this Act shall be in accordance with regulations set by the Land Office. The Land Office shall make a written recommendation on each application which shall be subject to the final approval of the Chairman.

Section 200 Forms of Relief (6 PYTC § 3-1-200)

The Tribe may offer any one of the following forms of relief to an applicant:

- (A) Issuing a loan to the Applicant; if the Tribe issues a loan to the Applicant, the Applicant must be able to provide a security interest to the Tribe, including the real property that is the subject of the loan.
- (B) Purchasing the loan from the mortgagor; or
- (C) Purchasing the real property outright.

Section 210 Funding (6 PYTC § 3-1-210)

The implementation of this Act shall be subject to available funds to be determined by the Chairman on a case-by-case basis after consultation with the Land Department.

Section 220 Maps (6 PYTC § 3-1-220)

The Chairman shall issue maps that outline the boundaries of the communities listed in Section 180(E) of this Act. The Chairman may re-issue these maps each year during the first week of January. If the Chairman does not re-issue a map, the map from the preceding year shall remain in effect.

DISPOSITION TABLE

Former Section	New Section
Homeowner & Mortgage Settlement Act of 2000	Subchapter A
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Section 2	Section 20
Section 3	Section 30
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