

NOTICE OF
PUBLIC MEETING

TO BE HELD
Thursday, June 30th at 12:15 p.m.
IN THE
OBC CONFERENCE ROOM
(2nd FLOOR—NORBERT HILL CENTER)

In accordance with the Legislative Procedures Act, the Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal.

TOPIC: Mortgage and Foreclosure

This is a proposal to create a new Mortgage and Foreclosure law which would:

- Contain the minimum framework for the Nation's mortgage programs and foreclosure process;
- Delegate joint rulemaking authority to Division of Land Management and the Land Commission to develop rules that may contain more detailed requirements *[see 64.3-1(r)]*;
- Require that at least one Tribal member must be included on a mortgage application *[see 64.4-2 (b)]*;
- Allow non-tribal member spouses to remain in the mortgaged property in the event of death or divorce of the Tribal member *[see 64.4-5]*;
- Allow mortgagors in default an opportunity to enter into an agreement to cure default prior to foreclosure at the discretion of the Division of Land Management *[see 64.6-1]*;
- Require an order to vacate once a judgment to foreclose has been issued by the Judiciary *[see 64.7-5]*;
- Provide the mortgagor has a 6 month redemption period if the home was occupied prior to the judgment to foreclose, or 5 weeks if the home was abandoned prior to the judgment to foreclose. The mortgagor may redeem the mortgage by paying the full amount of the mortgage and any related fees. If this occurs, the Judiciary will vacate the order to foreclose *[see 64.7-4]*;
- Prohibit the Nation from reselling the foreclosed property until after the redemption period has lapsed and all appeals have been exhausted *[see 64.7-6]*; and
- Transfer hearing body authority regarding foreclosure judgments from the Land Commission to the Judiciary *[see 64.8-2]*.

To obtain copies of the Public Meeting documents for this proposal, or to learn about the LOC public meeting process, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office.

PUBLIC COMMENT PERIOD OPEN UNTIL July 7, 2016

During the Public Comment Period, all interested persons may submit written comments and/or a transcript of any testimony/spoken comments made during the Public Meeting. These may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person (Second floor, Norbert Hill Center) or by U.S. mail, interoffice mail, e-mail or fax.

Legislative Reference Office
PO Box 365 Oneida, WI 54155
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Phone: (920) 869-4376 or (800) 236-2214
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Chapter 64
Mortgage and Foreclosure
Tsi? Thotinúhsote? laotilihwá'ke
that of their houses – their issues

<i>Analysis by the Legislative Reference Office</i>					
Title	Mortgage and Foreclosure (law)				
Requester	Land Commission	Drafter	Krystal L. John	Analyst	Maureen Perkins
Reason for Request	This is a new law that will explain the process used by the Nation to deal with mortgages and foreclosures. This law is being developed at the Land Commission's request to transfer the commission's hearing responsibilities to the Judiciary.				
Purpose	Set the standards and requirements for participation in the Nation's mortgage programs and to prescribe the foreclosure process required to be used in the event of a default of a mortgage.				
Authorized/Affected Entities	Land Commission, Oneida Judiciary, Division of Land Management, Oneida Police Department, Oneida Nation Register of Deeds, Oneida Land Title and Trust Department, Oneida Accounting Department, and Oneida Nation members who wish to participate in mortgage programs offered by the Nation				
Related Legislation	Judiciary law, Rules of Civil Procedure, Rules of Appellate Procedure, Leasing Law, Administrative Rulemaking, Real Property Law				
Enforcement/Due Process	Decisions of the Division of Land Management regarding the issuance of mortgages are final. Foreclosures can be appealed to the Judiciary.				

Overview

This is a new law that details the current process used by the Nation to offer mortgage programs to the Nation's membership and to foreclose on a property purchased through the Nation's mortgage programs. The law contains the minimum framework and requirements related to the mortgage programs and the required foreclosure process for all mortgages issued by the Nation. The Division of Land Management and the Land Commission have been delegated rulemaking authority under this law to develop rules according to the Administrative Rulemaking law which may contain more detailed requirements for each of the various types of mortgages offered by the Nation.

At least one Tribal member must be on the application to qualify for a mortgage issued by the Nation. If married, both spouses must apply for the mortgage jointly. Once a mortgage is issued, if the Tribal member dies, the non-tribal member can remain in the mortgage and the regular default process is applied in the case of a default of a non-tribal member mortgage. In the case of divorce, the ownership of the house will be determined through the divorce proceedings; this law does not prevent non-tribal spouses from remaining in the house absent the Tribal member.

The mortgage default process is detailed within the law. Default notices are mailed to mortgagors for each 30 calendar days of default. The Division of Land Management, at their discretion, may enter into an agreement to cure default for mortgagors who demonstrate the ability to pay the defaulted amount within one year. Once two notices of default have been issued, the Division of Land Management will determine, based on a standard operating procedure, if it is in the best interest of the Nation to pursue a foreclosure. The minimum foreclosure process is detailed and includes the Judiciary as the decision making authority to

71 an agreement to cure a defaulted mortgage.
72 ▪ This law, the Real Property Law amendments and the Leasing Law are all inter-
73 related. The Real Property Law currently in effect contains provisions relating to
74 mortgages and foreclosure that conflict with this law [*see 67.14 of current Real Property*
75 *Law*]. However, this Mortgage and Foreclosure law will govern upon adoption. The
76 current proposed amendments to the Real Property Law pull the detail related to
77 mortgages and foreclosures out of the Real Property Law and reference this Mortgage
78 and Foreclosure law instead.

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Miscellaneous

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A public meeting has not yet been held. Please refer to the fiscal impact statement for
any financial impacts.

Chapter 64
Mortgage and Foreclosure
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64.1.	Purpose and Policy.	64.5.	Default.
64.2.	Adoption, Amendment, Repeal.	64.6.	Agreement to Cure Default.
64.3.	Definitions.	64.7.	Foreclosure.
64.4.	Mortgage Programs.	64.8.	Appeal Rights.

64.1. Purpose and Policy.

64.1-1. *Purpose.* It is the purpose of this law to set the standards and requirements for participation in the mortgage programs and to prescribe the foreclosure process required to be used in the event of a default of a mortgage.

64.1-2. *Policy.* It is the policy of this law to administer mortgage programs aimed at maintaining and improving the standard of living for Tribal members, while protecting the Nation’s assets and expanding the Tribal land base.

64.2. Adoption, Amendment, Repeal.

64.2-1. This law is adopted by the Oneida Business Committee by Resolution _____.

64.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

64.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

64.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

64.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

64.3. Definitions.

64.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Abandoned” means the relinquishment of possession or control of a mortgaged premises whether or not the mortgagor or the mortgagor’s assigns have relinquished equity and title to the mortgaged interest.

(b) “Agreement to Cure Default” means a signed contract between a customer of a mortgage program and the Division of Land Management on behalf of the Nation whereby the parties agree upon a temporary payment schedule to allow the mortgagor to cure a default.

(c) “Appraisal” means the valuation of real property by the estimate of an authorized person.

(d) “Business Day” means Monday through Friday from 8:00 a.m. - 4:30 p.m., excluding holidays recognized by the Nation.

(e) “Default” means a failure to comply with the payment terms of a mortgage.

37 (f) “Foreclosure” means a legal proceeding initiated by the Nation to terminate a
38 mortgagor’s interest in real property, by taking possession of the real property as a partial
39 or complete satisfaction of a default.

40 (g) “Home Inspection” means an examination of a property’s condition.

41 (h) “Judiciary” means the judicial system established by General Tribal Council
42 resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of
43 the Nation.

44 (i) “Mortgage” means a lien, held by the Nation, on a real property interest that is given
45 as security for the payment of a debt and/or the performance of a duty, including the
46 refinancing of an original conveyance, that will become void upon the payment and/or
47 performance according to the stipulated terms.

48 (j) “Mortgagor” means the borrower in a mortgage.

49 (k) “Nation” means the Oneida Nation.

50 (l) “Notice of Default” means a formal and dated notice of default.

51 (m) “Personal Property” means any property that does not fit the definition of real
52 property and is generally movable.

53 (n) “Real Property” means land and anything growing on, attached to, or erected on the
54 land, excluding anything that may be severed without injury to the land.

55 (o) “Redemption Period” means the timeframe during which a defaulting mortgagor
56 may recover a mortgaged interest that is the subject of a judgment of foreclosure by
57 paying the outstanding debt owed.

58 (p) “Refinance” means an exchange of an old debt for a new debt, as by renegotiating a
59 different interest rate, term of the debt, or by repaying the existing loan with money
60 acquired from a new loan.

61 (q) “Reservation” means all the property within the exterior boundaries of the
62 reservation of the Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat.
63 566, and any lands added thereto pursuant to federal law.

64 (r) “Rule” means a set of requirements, including citation fees and penalty schedules,
65 enacted by the Division of Land Management in accordance with the Administrative
66 Rulemaking law based on authority delegated in this law in order to implement, interpret
67 and/or enforce this law.

68 (s) “Title” means legal evidence of a person’s ownership rights in real property.

69 (t) “Title Report” means the written analysis of the status of title to real property,
70 including a property description, names of titleholders and how the title is held, tax rate,
71 encumbrances and any real property taxes due.

72 (u) “Tribal Land” means any land held in fee or trust status by the Nation within the
73 reservation.

74 (v) “Tribal Member” means an enrolled member of the Nation.

75 76 **64.4. Mortgage Programs.**

77 64.4-1. *Available Mortgage Purposes.* Consistent with available funds, the Division of Land
78 Management shall provide mortgage programs for the following purposes and shall establish
79 rules naming said programs and providing the specific requirements for each program:

80 (a) Financing the purchase or down payment of existing homes and lands;

81 (b) Construction of new homes;

82 (c) Repairs and improvements to existing homes;

83 (d) Refinancing existing mortgages.

84 64.4-2. *Mortgage Eligibility Requirements.* In order to be eligible for a mortgage, applicants
85 shall meet the following conditions:

86 (a) Be at least eighteen (18) years of age at the time of the application;

87 (b) Be a Tribal member(s);

88 (1) If the application is for joint applicants, at least one (1) applicant shall be a
89 Tribal member.

90 (2) For married joint applicants, both spouses shall be named applicants on the
91 application and joint mortgagors.

92 (c) Not have a discharged bankruptcy within two (2) years from the date of the
93 application;

94 (d) Not be involved in a bankruptcy proceeding that has not yet been discharged at the
95 time of the application; and

96 (e) Not have had a mortgage foreclosed upon within the seven (7) years from the date of
97 the application.

98 64.4-3. *Mortgage Selection.* The Land Commission and the Division of Land Management
99 shall jointly develop rules governing the selection of applicants for the issuance of a mortgage.
100 At a minimum, the Land Commission and the Division of Land Management shall ensure that
101 the mortgage selection rules require that the mortgagor:

102 (a) Have an acceptable credit rating as defined in the rules;

103 (b) Have an acceptable debt to income ratio as defined in the rules;

104 (c) Have all delinquent debts owed to the Nation paid in full prior to signing the
105 mortgage document;

106 (d) Have no more than the allowable amount of accumulated judgments, collections
107 and/or profit and loss write-offs based on the rules, and, if any debts are being paid
108 through a debt collector, the monthly payment must be listed as a monthly debt on the
109 application;

110 (1) In the rules, the Land Commission and the Division of Land Management
111 shall provide the allowable timeframe, in relation to the date of selection, for
112 applicants to bring any judgments, collections and/or profit and loss write-offs
113 within the allowable amount.

114 (2) Applicants failing to bring said debts within the allowable amount based on
115 the timeframe provided become ineligible for the mortgage.

116 64.4-4. *Mortgage Requirements.* The Land Commission and the Division of Land Management
117 shall jointly develop rules governing the requirements of mortgages entered into by the Division
118 of Land Management. At a minimum, the Land Commission and the Division of Land
119 Management shall ensure that the mortgage requirement rules:

120 (a) Require the mortgage document to identify the source of the ownership interest in the
121 real property as attributable either to a deed or a residential lease entered into pursuant to
122 the Leasing law;

123 (b) Require the real property that is the subject of the mortgage be insured under a
124 homeowner's insurance policy paid for by the mortgagor and include enforcement
125 provisions in the event of noncompliance herewith;

126 (c) Require that the mortgage be the first or second secured interest on the real property;

127 (d) Require proof of clear title, as defined by the rules, prior to entering into a mortgage;

128 (e) Establish which administrative fees, if any, that may be assessed in the mortgage;

129 (f) Require that the mortgage be for real property located within the reservation;

130 (g) Require the mortgage include interest at a rate provided in the rules.

131 64.4-5. *Non-Tribal Member Spouses.* The following applies when one of the mortgagors is a
132 non-Tribal member:

133 (a) *Death of the Tribal Member Spouse.* So long as the mortgage is not defaulted upon,
134 the death of the Tribal member spouse does not affect a mortgage. If the non-Tribal
135 member spouse defaults on the mortgage, the mortgage is subject to the regular
136 foreclosure proceedings as outlined in this law.

137 (b) *Refinancing due to Death or Divorce.* In the event that a mortgagor seeks refinancing
138 due to the death or divorce of a spouse, the mortgagor shall comply with the refinancing
139 rules established pursuant to Section 64.4-1(d).

140

141 **64.5. Default.**

142 64.5-1. *Notice of Default.* The mortgage officer shall send a notice of default to mortgagors
143 by first class mail for each month for which the mortgagor defaults on the subject mortgage,
144 provided that the mortgage officer shall send the notices of default a minimum of thirty (30)
145 calendar days apart and ensure that the notice contains the following information:

146 (a) The notice number;

147 (b) The dates of the default;

148 (c) The amount of the default;

149 (d) The requirement to cure the default, including important dates affecting the
150 mortgagor's rights;

151 (e) The mortgagor's available options to cure a default; and

152 (f) The actions that may be taken by the Nation if the default is not timely cured.

153

154 **64.6. Agreement to Cure Default.**

155 64.6-1. *Entering into an Agreement to Cure Default.* The Division of Land Management may,
156 in its full discretion, work with mortgagors able to pay a mortgage default over time to enter into
157 an agreement to cure default over a reasonable time not to exceed one (1) year.

158 (a) A mortgagor may enter into one (1) agreement to cure default per twelve (12) month
159 period. A mortgagor may request more than one (1) agreement to cure the default in a
160 twelve (12) month period if the mortgagor is able to demonstrate the additional
161 agreement is necessary due to extenuating circumstances faced by the mortgagor,
162 provided that, the director of the Division of Land Management shall approve any such
163 agreements before said agreement may become effective.

164 (b) The Division of Land Management may not permit mortgagors to increase payroll
165 deduction payments to cure a default without first entering into an agreement to cure
166 default.

167 (c) In the event a mortgagor violates the terms of an agreement to cure default, the
168 Division of Land Management shall enforce the remedies afforded the Nation in the
169 agreement to cure default and may not amend the terms of an unsatisfied agreement to
170 cure default without the approval of the director of the Division of Land Management.

171 64.6-2. *Elements of an Agreement to Cure Default.* All agreements to cure default entered
172 into by the Division of Land Management are required to contain the following elements:

173 (a) The effective date of the agreement;

174 (b) The parties to the agreement;

- 175 (c) The amount of payments under the mortgage and any agreements to cure default
176 previously entered into;
177 (d) A statement that the mortgage and, if applicable, any previous agreement to cure
178 default are in default;
179 (e) The amount of the increased payments under the agreement;
180 (f) The terms of the agreement, including the remedies available to the Nation in the
181 event that the mortgagor violates the terms of the agreement; and
182 (g) Notice that a failure to follow the terms of the agreement may result in the immediate
183 filing of a foreclosure.
184

185 **64.7. Foreclosure.**

186 64.7-1. *Decision to Foreclose.* Any mortgage that is in default for two (2) consecutive months
187 may be subject to foreclosure, provided that the Nation has complied with the notice of default
188 requirement in section 64.5-1.

189 (a) After the two (2) notices of default have been sent, the Division of Land Management
190 shall determine whether initiating foreclosure proceedings would be in the best interest of
191 the Nation, provided that the Division of Land Management shall abide by the
192 foreclosure determination standard operating procedure approved by both the director of
193 the Division of Land Management and the Land Commission.

194 (1) Should the Division of Land Management determine that initiating a
195 foreclosure is in the best interest of the Nation, the Division of Land Management
196 shall submit a complaint to the Judiciary in compliance with the Nation's laws
197 and the Judiciary's requirements. The complaint may not be submitted until after
198 thirty (30) calendar days from the date of the second notice of default.

199 (2) The Division of Land Management shall include in all complaints a demand
200 judgement for any deficiency that may remain due to the Nation after the Nation's
201 reclamation of title against every party who is personally liable for the debt
202 secured by the mortgage that is the subject of the foreclosure.

203 64.7-2. *Mortgage Satisfaction or Agreement to Cure Default Prior to Judgment of*
204 *Foreclosure.* If the mortgagor satisfies the mortgage that is the subject of a foreclosure
205 complaint or the parties reach an agreement to cure default prior to the Judiciary's entering of a
206 judgment of foreclosure, the Judiciary shall dismiss the foreclosure complaint.

207 (a) *Mortgage Satisfaction.* A mortgagor named in a foreclosure complaint may satisfy
208 the subject mortgage at any time prior to the Judiciary's entering of a judgment of
209 foreclosure. Under such circumstances, the mortgagor shall submit to the Judiciary proof
210 of payment in full of the mortgage principal, any interest owed and any court costs
211 incurred by the Nation. Upon receipt of verified proof of satisfaction, the Judiciary shall
212 dismiss the foreclosure complaint based on satisfaction of the mortgage.

213 (b) *Agreement to Cure Default.* Should the Nation and the mortgagor reach an agreement
214 to cure default in accordance with section 64.6 after foreclosure proceedings have been
215 initiated, which may include provisions requiring the mortgagor to reimburse the Nation
216 for any court costs incurred, the mortgagor shall submit to the Judiciary a copy of the
217 executed agreement to cure default. Upon receipt of an executed agreement to cure
218 default, the Judiciary shall dismiss the foreclosure complaint without prejudice based on
219 the agreement to cure default.

220 64.7-3. *Judgment of Foreclosure.* If the Judiciary finds in favor of the Nation, it shall issue a
221 judgement of foreclosure. At a minimum, the Judiciary shall include the following in each
222 judgment of foreclosure:

- 223 (a) A description of the mortgaged premises;
- 224 (b) The amount of the mortgage debt due;
- 225 (c) The mortgagor's redemption period;
- 226 (d) An order to vacate the mortgaged premises within thirty (30) calendar days of the
227 judgment;
- 228 (e) An order transferring title of the mortgaged premises to the Nation as partial or full
229 payment of the amount of mortgage debt then due;
- 230 (f) So long as the Nation's complaint reserves the right to demand a judgment of
231 deficiency for costs that may remain due after the transfer of title to the Nation pursuant
232 to foreclosure, an order recognizing the Nation's reserved right, which may include sums
233 advanced by the Nation for insurance, necessary repairs, inspection costs, appraisal fees
234 and other costs; and
- 235 (g) An order that within seven (7) months of receipt of a judgment of foreclosure, the
236 Nation submit either a motion demanding a judgment of deficiency or a motion to
237 enforce the judgment of foreclosure, each of which are required to include a final
238 accounting and a confirmation of appraisal.

239 64.7-4. *Redemption Period.* The Judiciary shall afford all mortgagors subject to a judgment
240 of foreclosure a redemption period. To redeem a real property interest, the mortgagor shall pay
241 the full amount of the mortgage debt due and any costs incurred by the Nation for insurance,
242 necessary repairs, inspection costs, appraisal fees and other costs.

243 (a) *Occupied Premises.* The required redemption period for occupied premises is six (6)
244 months. Absent an affirmative finding of abandonment, the Judiciary shall presume that
245 premises are occupied premises.

246 (b) *Abandoned Premises.* The required redemption period for abandoned premises is, at
247 a minimum, five (5) weeks. A redemption period based on abandoned premises requires
248 an affirmative finding of abandonment by the Judiciary based on evidence submitted by
249 the Division of Land Management on behalf of the Nation.

250 (1) In determining whether the mortgaged premises have been abandoned, the
251 Judiciary shall consider the totality of the circumstances, including the following:

- 252 (A) Boarded, closed or damaged windows or doors to the premises;
- 253 (B) Missing, unhinged or continuously unlocked doors to the premises;
- 254 (C) Terminated utility accounts for the premises;
- 255 (D) Accumulation of trash or debris on the premises;
- 256 (E) At least two (2) reports to law enforcement officials of trespassing,
257 vandalism, or other illegal acts being committed on the premises when the
258 mortgagor is not present; and
- 259 (F) Conditions that make the premises unsafe or unsanitary or that make
260 the premises in imminent danger of becoming unsafe or unsanitary.

261 (2) The Division of Land Management may include testimony from a
262 representative of the city, town, village or county where the mortgaged premises
263 is located as part of its evidence of abandonment.

264 (c) *Redeemed Premises.* Should the mortgagor successfully redeem the mortgaged
265 interest that is the subject of a judgment of foreclosure, the Nation shall issue the

266 mortgage a certificate of redemption. Upon receipt of a certificate of redemption, the
267 mortgage shall file a motion to vacate the judgment of foreclosure with the Judiciary.
268 Upon receipt from the Judiciary, the mortgage shall duly record the order to vacate the
269 judgment of foreclosure with the Oneida Nation Register of Deeds.

270 64.7-5. *Mortgage Holder's Responsibilities upon Receipt of a Judgment of Foreclosure.*
271 Upon receipt of a judgment of foreclosure, the Division of Land Management, on behalf of the
272 Nation as the mortgage holder, shall:

273 (a) Secure and take possession of the real property once the timeframe in the order to
274 vacate has expired.

275 (1) The Division of Land Management shall provide the mortgage notice of
276 when the property's locks are scheduled to be changed, which, at a minimum,
277 includes the following:

278 (A) The property address;

279 (B) The date and time the locks are scheduled to be changed;

280 (C) Notice to mortgage that an Oneida Police Officer will be present
281 while the locks are being changed;

282 (D) Information on how the disposition of personal property will be
283 managed based on section 64.7-5(a)(3);

284 (E) The contact information for Division of Land Management staff whom
285 the mortgage may contact in regards to the property; and

286 (F) A copy of the judgment of foreclosure.

287 (2) The Division of Land Management shall contact the Oneida Police
288 Department to request that an Oneida police officer be on the scene while the
289 locks are being changed.

290 (3) In the event the mortgage has left personal property in the home, he or she
291 may retrieve said personal property by contacting the Division of Land
292 Management staff listed on the work order. The Division of Land Management
293 shall hold personal property for a minimum of five (5) business days.

294 (A) The Division of Land Management shall keep a written log of the date
295 and the work time the Nation's staff expends storing and/or removing
296 personal property and/or removing/disposing of debris left at the property
297 after the expiration of the timeframe provided in the order to vacate.

298 (B) The Division of Land Management and the Land Commission shall
299 jointly create rules further governing the disposition of personal property.

300 (b) Order a title report from the Land Title and Trust Department with specific
301 instructions to contact the Accounting Department to verify whether the mortgage owes
302 any outstanding debts to the Nation and based on the title report shall:

303 (1) Seek payment of outstanding water bills and/or other liens or charges
304 appearing on the tax rolls from the mortgage. In the event of a failure to pay, the
305 Nation shall make payment and include such costs in the Nation's final
306 accounting required by the judgment of foreclosure and as explained in section
307 64.7-5(e);

308 (2) Request proof of payment of any judgments noted on the title report which
309 can be attached to the real property;

310 (3) Request proof of satisfaction of any mortgage liens issued by an outside
311 financial institution other than the Nation, provided that, said mortgage liens may

312 not be satisfied by the Nation until the redemption period has either expired or
313 been terminated by the Judiciary.

314 (c) Order an appraisal of the real property to be completed;

315 (d) Order a home inspection, including a well and septic inspection, of the real property
316 to be completed and based on the findings of the home inspection shall coordinate which
317 repairs will be completed.

318 (1) In order for repair costs to be included in a judgment of deficiency 64.7-3(f),
319 the Nation shall include the following in its demand for the said judgment:

320 (A) A record of all receipts for materials and invoices for services related
321 to the said repairs;

322 (B) A record of all hours expended by the Nation's staff related to the said
323 repairs; and

324 (C) Photographic evidence demonstrating the condition of the real
325 property both before and after the repairs were made.

326 (2) If, based on the home inspection, the Division of Land Management
327 determines it to be in the best interest of the Nation to raze a foreclosed upon
328 property, it may do so in accordance with the rules which the Division of Land
329 Management and the Land Commission shall jointly develop. Any costs related
330 to the razing of a property may be included in the Nation's demand for a
331 judgment of deficiency.

332 (e) Wrap up the foreclosure by filing with the Judiciary either a motion demanding a
333 judgment of deficiency or a motion for enforcement of the judgment of foreclosure.

334 (1) *Demand for a Judgment of Deficiency.* The Nation shall file a demand for a
335 judgment of deficiency if the total of the amount of the mortgage debt due in the
336 judgment of foreclosure and the sums advanced by the Nation for insurance,
337 necessary repairs, inspection costs, appraisal fees and other costs exceeds the
338 value of the real property based on the appraisal. A demand for a judgment of
339 deficiency is required to include a confirmation of appraisal and an accounting of
340 all sums advanced by the Nation.

341 (2) *Motion for Enforcement of the Judgment of Foreclosure.* The Nation shall file
342 a motion for enforcement of the judgment of foreclosure if the total of the amount
343 of the mortgage debt due in the judgment of foreclosure and the sums advanced
344 by the Nation for insurance, necessary repairs, inspection costs, appraisal fees and
345 other costs are less than or equal to the value of the real property based on the
346 appraisal. If the total of the amount of the mortgage debt due in the judgment of
347 foreclosure and the sums advanced by the Nation for insurance, necessary repairs,
348 inspection costs, appraisal fees and other costs are less than the value of the real
349 property based on the appraisal, the Division of Land Management shall include
350 in the motion to enforce a copy of the signed apron issued to the mortgagor
351 providing the refunded amount.

352 64.7-6. *Resale Following Foreclosure.* The Division of Land Management may begin
353 advertising a foreclosed upon property for re-sale immediately following its receipt of an order to
354 enforce the judgment of foreclosure, provided that it may not complete a sale of said property
355 until the mortgagor's appeal rights have expired.

356

357 **64.8. Appeal Rights.**

358 64.8-1. *Decisions of the Division of Land Management are Final.* All decisions made by the
359 Division of Land Management in regards to the mortgage programs provided under this law are
360 final decisions and are not subject to appeal.

361 64.8-2. *Appeal of a Foreclosure.* A mortgagor whose real property has been foreclosed upon
362 may appeal a determination made by the Judiciary in accordance with the Judiciary law and the
363 Rules of Appellate Procedure.

364 _____
365 Adopted BC-