

# POARCH BAND OF CREEK INDIANS HOUSING DEPARTMENT

## POLICIES AND PROCEDURES FOR THE HOUSING RENOVATION LOAN PROGRAM

### POLICY STATEMENT

The Poarch Band of Creek Indians, through its Housing Department (the "Housing Department") recognizes the need to establish policies and procedures regarding the Renovation Loan Program. The Tribe, through the Housing Department will provide financial assistance, within approved budget amounts, for the Renovation Loan Program.

Individuals and families who apply for assistance will have to meet eligibility standards established by the Housing Department.

#### A. General Information

1. The Housing Department will provide assistance to pay for renovations, repairs, or replacements that add value to the Tribal Member's property. Loan may only be used for the purpose provided by applicant.
2. Families who meet at least 40% of the U.S. Median Income will be eligible for the Renovation Loan Program.
3. Applications will be received and reviewed by the Program Manager prior to approval/disapproval by the Housing Director. Eligible Tribal Members must make their request for a Renovation Loan on an application form developed by the Housing Department.
4. All applicants will receive a letter from the Housing Department staff notifying them of the status of their application once all information provided on the application has been verified.
5. Approval of the application is subject to the availability of funds. Applicants will be notified by letter of their status on the waiting list when funds become unavailable and when funds become available. All eligible applications will be retained on file until funds become available. All ineligible applications will remain on file for a period of no longer than twelve (12) months and then destroyed.
6. The Housing Director will determine the maximum dollar amount that may be used on the renovation of the Tribal Member's property. Loan amounts are available for no more than 70% of the applicants' total income and not to exceed fifty thousand dollars (\$50,000.00).

7. The term of the loan will be in five (5) year increments not to exceed twenty (20) years. There shall not be any penalty for prepayment of the loan.

B. Purpose

This policy describes the type of work that is allowable and the steps that must be followed to request payment for the renovation work. All applications will be reviewed based upon a first-come, first-serve basis.

C. Eligibility Requirements

An applicant must first meet the following eligibility requirements to be considered for a Renovation Loan from the Housing Department:

1. Applicant must be at least 21 years of age.
2. Primary applicant MUST be a Tribal Member. If the Applicant is married, his/her spouse's information must be included, and the spouse must also sign the application.
3. Applicant must meet at least 40% of the U.S. Median Income.
4. Applicant must have a credit score of 550 or higher. Applicants must also sign an authorization for the Department to request a credit report and score on the applicant. If the applicant is married, his/her spouse must also authorize a credit report to be requested. The credit scores of the applicant and spouse will be reported, and the higher of the two scores will be used in determining whether the applicant meets the minimum score established by the Department. If a Tribal Member Applicant cannot meet the minimum credit score requirement, the Applicant may still be allowed to participate in the program if he or she agrees (i) to receive his or her per capita check in monthly payments; and (ii) to have the payments due to Housing deducted prior to any distribution being made to the Tribal Member. The Applicant must sign an agreement to this effect prior to being allowed to occupy a rental unit.
5. Applicant must be current on all accounts with the Tribe.
6. Applicant must not have participated in the Housing Rehabilitation Program in the past five years.
7. Applicant must not have a current Renovation Loan with an outstanding balance in excess of \$30,000.
8. Property must be Tribal Member's primary residence at the time the renovations are completed.
9. Applicants must meet all other eligibility requirements as prescribed by the Housing Department.
10. After March 31, 2013, applicant must not have any renovation work performed under the Renovation Loan Program within a year from the date of the current application.

D. Application Process

All applicants are required to submit the following documents with their application:

1. An application requesting to use the renovation funds for betterment, replacement, or additions to the home and/or property.
2. Proof of home ownership, i.e. a copy of the deed.
3. Proof of income, such as a recent check stub, current tax statement, SSI or Disability benefits, child support payments, etc.
4. A copy of Tribal I.D. Card(s).
5. A copy of Social Security Card(s).
6. A signed authorization for the Department to request a credit report and score for the applicant and his/her spouse, if applicable.
7. Any other documentation requested by the Housing Department.

E. Allowable Uses

Without exception, allowable uses are limited to the renovations, repairs or replacements that add value to the Tribal Member's property. Allowable uses include, but are not limited to, the following items:

Exterior Items	Interior Items
Roofing and (or) Chimney Repair	Carpeting
Driveway New/Replacement	Flooring
Rain Gutters	Painting
Eave Repair	Bathroom Remodeling
Corrective Drainage	Kitchen Upgrades
Foundation Repair	Laundry Room Upgrades
Fences	In wall bookshelves
Wood/Brick/Vinyl Siding	New Wall Units
Gates	Basement Finishing
Exterior Paint	Closet Additions or Finishing
Sump Pumps & Sewage	Light Fixtures and Lighting Enhancements
Window/Door Replacement	Lead and Asbestos reduction/abatement
Stairs	Plumbing
Landscaping	Electrical / Re-wiring
Structural Repair	Termite Damage Repair
Additions to the home	Appliances
Carports	Air Conditioning and Heating
Patios/Decks	Carpentry Work/ Trim
Enclosure of Screened Room/ Lanai	Doors
	Cabinets/Counter tops

Paying for routine maintenance is not an allowable use, unless the maintenance expense is over \$5,000.00.

Loan funds may be used for the installation of a pool with written approval from the Housing Director. If allowed, pools must be in compliance with Housing Department policies and are subject to any applicable restrictions. Applicant may also be required to sign a waiver/liability release.

The Housing Department shall give projects the following priority in funding: (1) life safety and sanitary issues, (2) necessary home repairs, and (3) projects that are not necessary but add value to the property.

The Housing Department reserves the right to make a final determination as to whether the renovation, repair, or replacement is a life safety or sanitary issue, a necessary repair, or a project that adds value to the Tribal Member's property.

F. Promissory Note and Loan Repayment

All applicants shall sign all necessary loan documents, including a promissory note (see "**Exhibit A**"), with the Housing Accounting Director before any work may begin. However, in no event shall the necessary loan documents be signed later than fourteen (14) days after the applicant receives notification of the approval of his or her application.

The homeowner will have one hundred eighty (180) days after promissory note has been signed to complete the renovation, remodeling or replacement of stated work. A request for an extension beyond the one hundred eighty (180) days may be granted in extenuating circumstances and must be made in writing including a statement of good cause as to why the work could not be completed within the 180 day period. Any extension must be approved in writing by the Housing Director at the Director's sole discretion. Upon the execution of the Promissory Note, the loan amount will be deposited in a renovation draw account for the benefit of the homeowner. Upon submission of the proper documentation to the Housing Department, disbursements will be made to the contractor/vendor as set forth in Section G, below. Any money remaining in the renovation draw account at the end of the approved home improvement project shall be applied to the principal balance.

Payments will begin on the 1<sup>st</sup> day of the month following the completion of the work or 180 days after the date the Promissory Note is signed, whichever is sooner, and are payable according to the terms and conditions set forth in the Promissory Note. As stated in the Promissory Note, payments are due at the first of each month and will be considered outstanding after the 15th of each month. A late fee equal to 10% of the required monthly payment will be posted to all accounts that are outstanding after the 15th of each month. Any account that is not brought current by the end of the last day of the month shall be considered to be in default and will be turned over to the tribal courts for collection.

G. Payment for Materials, Construction Costs, Contractor Services

The Poarch Band of Creek Indians Accounting Department will make payment to the party performing the work and the homeowner via a two-party check. At no time will payments be made only to the homeowner for any material or contractor invoices. All homeowners who are performing the renovation work themselves must obtain and submit a written or printed quote from the vendor(s) for all materials needed for the project. Upon review and approval of the written or printed quote, a check will be made to the homeowner and the contractor/vendor for that purchase. The Housing Department WILL NOT reimburse homeowner's for purchases made with their own personal funding. There will be no exceptions to this rule unless prior arrangements have been made with the Housing Director.

Payment of no more than twenty five percent (25%) of the loan amount shall be made to persons performing own work without a certified inspection being performed. All contractors shall be paid on an incremental draw basis subject to a certified inspection report. Inspections shall be made once every forty-five (45) days, including one final inspection. Homeowners will be responsible for the cost of any additional inspections resulting from approved extensions. For homeowners living outside the seven (7) county service area, the homeowner shall hire a licensed inspector in their state and must coordinate with the Programs Manager regarding additional required documentation. For all TAHO participants, all inspections must be in compliance with the International Residence Code. A copy of the inspection shall be sent to the Programs Manager.

H. Residence Requirements for TAHO Participants

If the Renovation Loan recipient is a TAHO participant, the home must be maintained as his/her primary residence until such time as the Renovation Loan is paid in full.

I. Resale Restriction

If at any time the homeowner sells or transfers title to a home or property before payment in full has been made, the homeowner must repay the Tribe any balance due on the loan at the time of sale or transfer, except if: (1) the transfer is to another Tribal Member, (2) the Tribal Member purchaser is willing to fully assume payment of the loan (meaning the Tribal Member must sign a promissory note with a pledge of his/her per capita disbursement in event of a default), and (3) the Tribal Member purchaser qualifies for the Renovation Loan Program.

To ensure that the homeowner complies with this resale restriction, the homeowner and his or her spouse, if any, shall sign a Land Use Restriction (see "**Exhibit B**"), which shall be recorded in the county where the property is located. The homeowner shall pay for the recording, or it shall be disbursed from homeowner's renovation draw account.

J. Other Requirements

1. A current copy of insurance coverage shall be kept on file in the Housing office at all times during the term of the loan.
2. The homeowner shall be responsible for having warranty work performed on any manufactured appliances or materials used in the renovation of their home.
3. Any warranty periods for renovation work and materials shall be made between the homeowner and the contractor.
4. The participant(s) hereby stipulate and agree that they are subject to the civil jurisdiction of the tribal courts of the Poarch Band of Creek Indians for the purpose of resolving any disputes between the parties.

K. Implementation

The Housing Director and Staff are tasked with the requirement to implement the Housing Renovation Program by promoting it, developing any other necessary forms and developing a point system that would lead to the creation of a list of Applicants that is to be prioritized and maintained.

These policies and procedures are adopted by the Poarch Band of Creek Indians Housing Department on this 6<sup>th</sup> day of April, 2015. These Policies and Procedures will apply to any applications approved after the date of adoption. Any allegation of a violation of this Policy should be directed to the Tribal Grievance Board. Any other adverse decision, or any instance/decision in which the Housing Department Director has a conflict of interest, should be directed to the Tribal Member Services Division Director.



Susan M. Wicker, Housing Director  
Poarch Band of Creek Indians

**PROMISSORY NOTE FOR RENOVATION LOAN**

**RECITATIONS:**

Borrower: \_\_\_\_\_

Term (in months): \_\_\_\_\_

Borrower's Address: \_\_\_\_\_  
\_\_\_\_\_

Principal Amount: \_\_\_\_\_

Monthly Payment: \_\_\_\_\_

1. Acknowledgement:

For Value Received, I/we, \_\_\_\_\_, by execution of this instrument, acknowledge and recognize that I/we am/are indebted to the Poarch Band of Creek Indians ("Tribe") for the principal sum of \_\_\_\_\_. I/we acknowledge and recognize this indebtedness, and I/we agree to make payment of amount due.

2. Payment Terms:

The principal due under this Promissory Note is payable in \_\_\_ equal monthly installments of \_\_\_\_\_ beginning on the \_\_\_ day of \_\_\_\_\_, 20\_\_ and continuing on the 1st day of each succeeding month thereafter, and one final installment of principal in the amount of \_\_\_\_\_, which shall be due and payable on the 1st day of \_\_\_\_\_, 20\_\_.

3. Late Payment Fee:

In any event that any payment required to be paid by Borrower hereunder is not received by the 15th day of the month, the Borrower shall pay to the Tribe, in addition to such payment or other charges due hereunder, a late fee in the amount of 10% of the monthly payment amount.

4. Renovation Draw Account:

Upon the execution of this Promissory Note, the loan amount will be deposited in a renovation draw account for the benefit of the Borrowers. Upon submission of the proper documentation to the Lender, disbursements will be made to the contractor/vendor. Any money remaining in the renovation draw account at the end of the approved home improvement project shall be applied to the principal balance.

5. Payments to Contractors/Vendors:

All disbursements based upon this Promissory Note will be made in the name of the contractor/vendor and Borrower. All disbursements to contractors/vendors are made on behalf of the Borrower, and no disbursements are to be construed as payment for services on behalf of the Housing Department. This Promissory Note in no way establishes a contractor/vendor relationship between the Poarch Band of Creek Indians or the Housing Department and the contractors/vendors that receive disbursements based upon this Promissory Note.

6. Sale of the Property:

The Borrower shall immediately pay the unpaid principal upon the sale the property where the approved home improvement project occurred.

7. Default and Acceleration Clause:

If Borrower defaults in the payment of this Promissory Note or in the performance of any obligation related to this Promissory Note, the Tribe will not provide Borrower with any notification but will immediately declare the unpaid principal balance on this Promissory Note immediately due. The Tribe may consider the default a Tribal Obligation Default and recover the entire unpaid principle balance interest in accordance with the governing Revenue Allocation Ordinance. As a Tribal Obligation Default, the Tribe shall, upon written notice, have the right and authority to retain and apply Borrower's share of tribal net gaming revenues, to which such Tribal Member would otherwise be entitled as a per capita payment, without any further action, proceeding or authorization be the Tribal Court or any other authority. If the Tribe chooses not to recover the unpaid balance under the governing Revenue Allocation Ordinance, it may seek judgment against Borrower for the entire unpaid principal balance, plus interest at a rate of 18% per annum (1.5% per month) from the date of default, and all reasonable attorney's fees associated with the collection and/or enforcement of this Promissory Note through probate, bankruptcy or other judicial proceeding, including Tribal Court. No judgment made by any other court shall release Borrowers from the obligations herein. This Promissory Note does not release Borrower from judgment made by any other court and is binding until all accumulated charges owed to the Tribe by Borrower are paid in full.

8. Demand, Presentment, Notice:

Borrower hereby waives demand, presentment, notice of dishonor, diligence in collecting, grace and notice of protest.

9. Severable:

If any provision of this Promissory Note or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Promissory Note nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

10. Waiver:

The Failure of the Tribe or Housing Department to insist upon a strict performance of any of the terms, conditions, and covenants herein contained shall not be deemed to be a waiver of any of the rights or remedies that the Tribe or Housing Department may have and shall not be deemed a waiver of such rights and remedies in the event of any subsequent breach or default in the terms, conditions, and covenants of this Agreement.

13. Governing Law:

This Promissory Note shall be governed, construed and interpreted by, through and under the laws of the Poarch Band of Creek Indians. All actions for non-payment shall be commenced in the Tribal Court for the Poarch Band of Creek Indians.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Borrower's Signature

\_\_\_\_\_  
Lender's Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Borrower's Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print Name

WITNESSED:

STATE OF \_\_\_\_\_

\_\_\_\_\_ COUNTY

I, the undersigned authority in and for said County and State, hereby certify that \_\_\_\_\_, whose name(s) is/are signed to the foregoing conveyance and who is/are known to me and acknowledged before me that being informed of the contents of the foregoing, \_\_\_\_\_ executed the same voluntarily on the day the same bears date.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

State of \_\_\_\_\_  
\_\_\_\_\_ County

### **Land Use Restriction**

This Land Use Restriction, a covenant running with the land (hereinafter the "Land Restriction") dated this the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, for good and valuable consideration, is hereby declared, covenanted, and made by \_\_\_\_\_ (hereinafter "Owner"), who is the owner(s) of the following property, to-wit:

**[Legal Description]** (hereinafter the Property").

The Land Restriction is imposed because Owner has been loaned funds for property renovations by the Poarch Band of Creek Indians Housing Department ("Housing Department"), an agent/instrumentality of the Poarch Band of Creek Indians, a federally recognized Indian tribe ("Tribe").

This Land Restriction, including all of its rights, restrictions, covenants and agreements, shall expire \_\_\_\_\_ (\_\_\_\_) years from the date of this Land Use Restriction or upon a recorded statement from the Housing Department or Tribe evidencing full payment of the loan referred to herein, whichever shall occur first (hereinafter the "Term").

#### LAND RESTRICTION:

During this Term, the Land Restriction on the Property is as follows:

The Property shall be used only for residential purposes and that residential occupancy shall only be by individuals or families who are either (i) members of, or are headed by a member of, the Tribe, or (ii) a surviving non-tribal spouse(s) or child(ren) of such a person who shared in the occupancy of the Property at the time of the death of such member of the Tribe.

All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be covenants and a deed restriction placed on the Property and Owner and binding and enforceable against the Owner and other subsequent owners of the Property. Furthermore, the Owner declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land.

#### ENFORCEMENT:

The Housing Department and the Tribe have all the rights and remedies necessary to enforce the Land Restriction contained herein. This includes, but is not limited to, enforcing compliance with the Land Restriction, invalidating any conveyance which violates the terms of the Land Restriction, and levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Owner by the Tribe. Furthermore, the Owner, as well as subsequent owners of the Property, shall also be liable to the Housing Department and the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under

this Land Use Restriction.

The Tribe has contributed through a loan the sum of \_\_\_\_\_ and \_\_\_/100 Dollars (\$ \_\_\_\_\_) to the Owner or Property and shall be entitled to recover this amount in its entirety for any violation of the Land Restriction during the Term.

NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE:

The Owner, and any subsequent owner of the Property, is obligated to notify the Housing Department in writing, delivery of which shall be evidenced with a written receipt, at 5811 Jack Springs Road, Atmore, AL 36502, that they intend to change occupancy, lease, sell, or convey the Property. This Notice shall be given no less than thirty (30) days prior to the Owner binding itself to such action(s). The Notice is for information purposes only. Any Housing Department or Tribe inactions or actions taken pursuant to such a Notice do not constitute the Housing Department's or the Tribe's approval of any particular use and are not a waiver by the Housing Department or the Tribe of any rights it has to enforce compliance with this Land Restriction.

After receipt of the Notice, the Owner of the Property must provide any and all information it has and that the Housing Department or Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction.

AMENDMENT:

Any amendment to this Land Restriction by an Owner of the Property shall require the approval and consent of the Housing Department or Tribe and be recorded in the same manner as this Land Use Restriction. However, other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Use Restriction.

SEVERABILITY:

If any provision of this Land Use Restriction is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.

HOMESTEAD WAIVER:

This Land Use Restriction is prior and superior to any Owner right to a homestead exemption under applicable law. The Owner of the Property waives his homestead rights to extent that they are in conflict with the rights and remedies set out in this Land Use Restriction.

IN WITNESS WHEREOF the Owner(s) has hereunto set his hand and seal on this the \_\_\_ day of \_\_\_\_\_, 20\_\_.

**OWNER(S):**

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

\_\_\_\_\_  
Printed Name: \_\_\_\_\_

STATE OF \_\_\_\_\_

\_\_\_\_\_ COUNTY

I, the undersigned authority in and for said County and State, hereby certify that \_\_\_\_\_, whose name(s) is/are signed to the foregoing conveyance and who is/are known to me and acknowledged before me that being informed of the contents of the foregoing, he/she executed the same voluntarily on the day the same bears date.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

**Exhibit D**

**Loan Application**