

HOME OWNERSHIP PROGRAM

Chapter 15 – Successor in Interest in Homeownership

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15.1 Successors in Homeownership

In the event of death, mental incapacity or an illness of the homebuyer that prevents the homebuyer from living in the home and caring for himself or herself, or that requires the homebuyer to obtain long-term care or treatment out of the home, or because of the illness, the homebuyer is no longer able to care for the home, the homebuyer may designate a tribal member successor in interest to the home who may assume the homebuyer's rights and responsibilities provided that all eligibility and program requirements are met.

15.1.1 *Manner of Designation.* Each homebuyer shall designate a successor at the time the home ownership (lease purchase) agreement is executed. The designation may be changed at any time during the duration of the agreement, provided that such changes are made in writing by the homebuyer.

15.1.2 *Eligibility of Successor.* The designated successor must either be the spouse of the homebuyer or a direct descendant, must be willing to make the home his/her primary residence, is willing and able to pay the administrative charge, the required monthly payment, and to perform maintenance and other obligations of a homebuyer.

If the designated successor is not eligible to become a homeowner, does not meet admission standards, or the homeowner fails to name a successor, DVHA may select an eligible family member who is also a tribal member. If none, DVHA may assign the house to the next eligible party on the waiting list.

15.1.3 *Situations where Successors will not be Recognized.* The designated successor shall not succeed if the home ownership (lease purchase) agreement is terminated for any reason other than death, physical or mental incapacity.

15.1.4 *Succession to All Rights and Obligations.* The designated successor shall assume all rights and obligations of the former homebuyer, including all outstanding amounts owed and any amounts in the equity account.

15.2. **Minor Children Occupying Home; Guardianship Agreement.**

After the occurrence of death, physical or mental incapacity, if there is no qualified and eligible successor, DVHA shall execute a home ownership (lease purchase) agreement (guardianship agreement) with an adult who has been appointed legal guardian of the children as an occupant of the home. The guardian shall be responsible for performing the duties and obligations of the home ownership (lease purchase) agreement on behalf of the children. This arrangement shall remain intact until the oldest child reaches the age of 18 years, at which time that person may become the head of household, if qualified. If at any time prior to the oldest child reaching the age of 18 years, the guardian is no longer willing and able to perform the obligations and duties of the agreement, and no other guardian is appointed, possession of the home shall be determined by DVHA.

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DVHA staff shall maintain open communications with Tribal Social Services in guardianship cases.

15.3. Equity and Amortization.

There shall be no interruption or change in the amortization schedule due to succession of the home. All rights and obligations, including equity accounts, shall be transferred to the subsequent homebuyer.

15.4 Definitions

15.4.1 *Successor in Interest.* Means a successor to another's interest in property.

15.4.2 *Guardianship Agreement.* Means a legal document that transfers the legal responsibility of a child to another person.

15.4.3 *Lease Purchase Agreement.* Means an agreement, in the context of the Homeownership program, that applies the monthly payment, or portion thereof, towards the purchase price of the home. When the full price is paid up, title to the item can then be transferred from the seller/owner to the homebuyer.

15.5 Reserved.