

(2) The topography and soil conditions of the land in the immediate vicinity of the applicant's present residence.

(3) The location of the nearest source of water.

(4) The proximity of roads.

(5) Such other factors may be necessary or appropriate.

**§ 700.339 Residency on life estate leases.**

(a) No person may reside on a life estate lease other than the life tenant, his or her spouse, and minor dependents and such persons who are necessarily present, as determined by the Commission, to provide for the care of the life tenant.

(b) In determining who is necessarily present for the care of the life tenant, the Commission shall consider the following criteria:

(1) The age of the life tenant.

(2) The nature and extent of the life tenant's disability, if any.

(3) The location of the life estate lease, including but not limited to, the following factors:

(i) Topography,

(ii) Proximity to water,

(iii) Proximity to fuel,

(iv) Proximity to shopping and medical services, and

(v) Any other factors deemed relevant to the Commission.

(4) The nature and extent of care to be provided to a disabled life tenant.

(5) Any other factors deemed relevant by the Commission.

(c) In the event it becomes necessary to change the identity of the person(s) or number of persons identified as necessarily present for the care of the life tenant, the life tenant shall make such request for change to the Commission. The Commission, upon review of the request, may grant an amended life estate lease to reflect the requested change.

**§ 700.341 Access to life estate leases.**

(a) Family members and other persons may enter upon the life estate lease premises for the purpose of visiting the life estate lease residents so long as such visit does not exceed thirty (30) consecutive days in any one visit or ninety (90) days total of all vis-

its within any lease year, except that grandchildren and their descendants who are not minor dependents of the life tenant and who have not attained the age of 18 (eighteen) years may visit for ninety (90) consecutive days in any lease year, the first of which shall commence on the date of issuance of the life estate lease. There shall be no limitation on visits which do not extend overnight.

(b) Visitors and residents shall use the existing road systems and access rights of way when traveling to and from life estate lease premises.

**§ 700.343 Life estate leases.**

The Commission shall execute a life estate lease to each applicant to whom a life estate lease is granted, which lease shall contain the following:

(a) The names of the persons entitled to reside on the life estate lease which shall be the life tenant, his or her spouse, and minor dependents and/or such persons who are necessarily present to provide for the care of life tenant.

(b) A description of the exterior boundaries of the land included in said lease.

(c) The term of the life estate lease which shall end either upon voluntary relinquishment or upon the death of the life tenant or his/her spouse, whichever occurs last.

(d) That the life tenant may feed not to exceed twenty-five (25) sheep units per year or equivalent livestock on the life estate lease premises.

(e) That no person may reside on a life estate lease other than the life tenant, his or her spouse, and minor dependents, and/or such persons who are necessarily present to provide for the care of the life tenant.

(f) That the Secretary of Interior shall pay, pursuant to 25 U.S.C. 640d-28(i), Pub. L. 96-305, section 30(i), on an annual basis, the fair market rental value of such life estate lease to the tribe to whom the lands leased were partitioned. Rental payments shall be made within thirty (30) days of the execution date of the life estate lease.

(g) That the life tenant may make reasonable improvements on the life estate lease which are related to the residence and agricultural purposes of

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the life tenancy as determined by the Commission. Such improvements:

(1) May include the renovation or replacement of existing dwelling structures and privies or outhouses so as to improve their utility, safety or level of modern utilities or amenities, but

(2) Shall not increase the number, size, or capacity of dwelling structures on the leased area except with the express written approval of the Commission based upon a showing of actual need, or to reasonably accommodate a resident care provider for whom there is not adequate existing residential capacity.

(3) May include not more than one shed or barn to be used in connection with livestock and/or agricultural activities permitted.

(4) May include one ceremonial hogan and one traditional ramada type structure.

(5) May include a garden of reasonable size.

(6) May include such other improvements as the Commission finds to be reasonable under the circumstances of each lease.

(h) That no person may visit on a life estate lease for more than thirty (30) consecutive days in any one visit or ninety (90) days total of all visits within any lease year the first of which shall commence on the date of issuance of the life estate lease, except that grandchildren and their descendants who are not minor dependents of the life tenant and who have not attained the age of eighteen (18) years may visit for ninety (90) consecutive days in any lease year. There shall be no limitation on visits which do not extend overnight.

(i) That said life tenant or his or her surviving spouse may relinquish said life estate lease at any time and may receive relocation benefits from the Secretary at the time of relinquishment as provided in 25 U.S.C. 640d-28(h), (Pub. L. 96-305, section 30(h)).

(j) The purposes for which the life estate lease may be used.

(k) The life estate tenure shall end by voluntary relinquishment, or at the death of the life tenant or the death of his or her spouse, whichever occurs last, all as provided in 25 U.S.C. 640d-28(g) (Pub. L. 96-305, section 30(g)).

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(l) No livestock shall be allowed in the lease area until the perimeter of the lease area is fenced.

(m) Such other terms and conditions deemed necessary or appropriate by the Commission.

### Subpart N—Discretionary Funds

SOURCE: 47 FR 57916, Dec 29, 1982, unless otherwise noted.

#### § 700.451 Purpose.

(a) The purpose of this subpart is to establish procedures for the submission, review and approval, and administration of applications for financial assistance from the discretionary fund established by Pub. L. 93-531, as amended.

(b) The purpose of the discretionary fund is to provide financial assistance to activities which will facilitate and expedite the relocation and resettlement of individuals under the Act and ease the hardship incurred by these individuals.

#### § 700.453 Definitions.

(a) *Act* means Pub. L. 93-531 (88 Stat. 1712, 25 U.S.C. 640d), as amended.

(b) *Applicant* means with respect to this subpart, any applicant as defined under § 700.457(c) or § 700.459(b).

(c) *Business* means any lawful activity, except a nonprofit organization, that is—

(1) Conducted primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Conducted primarily for the sale of services to the public.

(d) *Commissioners* means the three Commissioners of the Navajo and Hopi Indian Relocation Commission.

(e) *In-kind contribution* means a noncash contribution as described in attachment F of OMB Circular A-102.

(f) *Local government* means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, council of governments, and other regional or interstate entity, or any agency or instrumentality of a local government.