



Testimony of Sharon Vogel
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on behalf of the South Dakota Native Homeownership Coalition

Presented to the Senate Committee on Indian Affairs
S. 3381 - Tribal Trust Land Homeownership Act of 2021

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Introduction

Mr. Chairman, Madame Vice Chair, and members of the Senate Committee on Indian Affairs, my name is Sharon Vogel. I am the executive director of the Cheyenne River Housing Authority in Eagle Butte, SD on the Cheyenne River Sioux Reservation. I appear today on behalf of the [South Dakota Native Homeownership Coalition](#) to express our strong support for S. 3381, the Tribal Trust Land Homeownership Act of 2021.

I am also the Chairwoman of the United Native American Housing Association (UNAHA), with 33 member tribally designated housing entities (TDHEs) from the states of North and South Dakota, Nebraska, Montana, Utah, Wyoming, and Colorado. In addition, I am serving my first term on the Board of Directors of the National Low Income Housing Coalition (NLIHC) and continue my service as a Board Member of the National American Indian Housing Council (NAIHC).

Before I begin, I would like to thank Senator Thune and his staff from my home state of South Dakota for his leadership on this bill to promote homeownership opportunities for Native people living on tribal land. Both of our South Dakota Senators – Senator Thune and Senator Rounds – have visited the Cheyenne River Reservation many times and have seen firsthand the challenges we have with providing safe and sanitary housing for our tribal members. We are so appreciative that they both recognize that any good housing development strategy in Indian Country must include homeownership as a component.

I also want to thank you, Mr. Chairman, along with Senators Thune, Rounds, Smith, Tester, Cramer, Cortez Masto, and Warren for co-sponsoring S. 2092, the Native American Rural Homeownership Improvement Act of 2021, which would make the very successful USDA 502 relending demonstration permanent and authorize USDA to expand the program to Native

communities nationwide, including to Native Hawaiian Homesteads and Alaska Native Villages. Two Native community development financial institutions (Native CDFIs) participated in this \$2 million demonstration. One of them, Four Bands Community Fund, the Native CDFI serving the Cheyenne River Reservation, was able to borrow \$800,000 in capital from USDA, leverage it with funds from the State of South Dakota's Housing Opportunity Fund, and relend it to 11 eligible borrowers, totaling \$1,271,779.79 in loan volume. The 11 loans deployed through this partnership in two years were nearly four times as many mortgage loans as USDA deployed on its own directly in the previous decade.

Since the completion of this pilot, Four Bands has documented a pipeline of nearly \$7 million in mortgage financing without any marketing or advertising – all by word of mouth – a powerful indication of the demand for homeownership in our small community of less than 12,000 tribal members and we are hearing similar levels of demand from the Native CDFIs in our neighboring state of Montana – nearly \$9 million. Accordingly, we urge Congress to enact S. 2092 to make this important and much-needed source of capital available to Native families in rural communities across Indian Country as soon as possible.

One other word of recognition – I'd like to thank Senator Rounds and his staff for their hard work on reforming the U.S. Department of Veterans Affairs Native American Direction Loan program. At the request of Senator Rounds and the Senate Veteran Affairs Committee, the Government Accounting Office (GAO) is conducting a comprehensive review of the barriers to homeownership for Native American veterans. We anticipate that GAO will release its findings this spring, and we are looking forward to assisting any legislative efforts that will follow.

Feedback on S. 3381

Now, I'd like to talk about S. 3381. We appreciate the emphasis this bill places on designing and implementing the Bureau of Indian Affairs' (BIA's) processes in a way that is compatible with private mortgage industry practices. Native people should be able to enter mortgage transactions just as any other citizen in this country. Unfortunately, that is not always the case due to delays and inconsistencies with the BIA's processes. As our trustee, the BIA has a fiduciary duty to protect tribal land and prevent it from leaving its trust status. However, this trust responsibility should not impede tribal members' ability to utilize their property rights to achieve their dreams of homeownership.

S. 3381 will go a long way to build on the momentum we are seeing across Indian Country to increase the homeownership rates of Native families. Overall, we applaud the legislation for prioritizing the mortgage processes within the BIA and setting a tone of accountability. The following provisions have the potential to offer some great solutions:

1. **Review and Processing Timeframes.** The bill establishes timelines for review and processing guidelines for leasehold mortgages, right-of-way documents, land mortgages, and title status reports (TSRs). It also mandates an annual report to Congress about the volume of mortgage package documents and whether the applicable timeframes were met. We appreciate the inclusion of this congressional oversight and hope that it is adequate to ensure compliance with these statutory requirements. To date, the BIA's administrative Mortgage Handbook (52 IAM 4-H) issued in 2019 sets out similar timeframes, which have not been adhered to in many cases. We recommend that the Congressional oversight committees monitor compliance closely and consider more stringent enforcement mechanisms, as appropriate.
2. **TAAMs Terminals.** We strongly support the provision that requires BIA to give tribes and the federal agencies "read only" access to Trust Asset and Accounting Management System (TAAMS) terminals. It is critical for the BIA to take the steps necessary to provide access to TAAMs terminals as expeditiously as possible to ensure that mortgage processes are not unnecessarily stalled. We were encouraged to hear the remarks of Assistant Secretary for Indian Affairs Bryan Todd Newland during his confirmation hearing last summer. He committed to this Committee, in response to questions from Senator Daines, to make TAAMs terminals available as quickly as possible, including to tribes who have adopted their own leasing processes under the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (HEARTH Act).
3. **1st Certified Title Status Report.** Another key element we are pleased to see is the requirement for the 1st certified TSR to be issued within 14 days. Off reservation, county assessors' records allow one to see title records within minutes, and title policies are issued by title companies for underwriting purposes usually within two to four weeks. Receiving comparable documents from the BIA has varied widely by BIA Region from 30 days to 365 days or more in many cases. Lenders require certified Title Status Reports to document title for underwriting purposes. These reports are submitted to loan underwriters along with the loan application and traditional underwriting information. Requiring a 14-day timeline for obtaining the 1st certified TSR moves the process one step closer to the timing of the industry experiences on fee simple land for home loan transactions.
4. **GAO Study.** We strongly support the bill's mandate for a GAO study about the need and cost for digitization of mortgage related documents. The BIA must modernize and enter today's world of technology so that it can provide the appropriate level of service necessary to support homeownership transactions for Native families. We urge Congress to appropriate the funds necessary to implement the findings of the GAO study as quickly as possible.

5. **Realty Ombudsman.** Often, homebuyers on trust land feel like their mortgage packages fall into a “black hole” somewhere within the depths of the BIA. Therefore, we strongly support the establishment of a Realty Ombudsman to ensure compliance with timeframes and to receive inquiries from tribal citizens, tribes, lenders, and tribal and federal agencies. It will be important, however, for this position to have the authority to take action where appropriate. For example, we would like to see the Ombudsman have the authority to utilize automatic waivers and assumed approval if timelines for reviewing mortgage packages are not being met.

In conclusion, the South Dakota Native Homeownership Coalition once again commends Senator Thune and his staff for introducing S. 3381, and we would like to offer one additional suggestion. As Congress works towards enactment of this legislation, we encourage the Committee to create an advisory group to work with the Bureau of Indian Affairs to identify antiquated leasing regulations that are no longer needed due to the evolution of tribal governments and the sophistication of tribal borrowers. We hope that the Committee will consider amendments to authorize the creation of such an effort.

Thank you for the opportunity to testify. We look forward to continuing to work with our South Dakota Senators, this Committee, and all of Congress to improve homeownership opportunities for Native people wherever they may reside.

I would be happy to answer any questions you may have.