

ORDINANCE

Comments Requested On Debt Collection Ordinance

The Tribal Council is soliciting comments on the Debt Collection Ordinance provided below. Written or oral comments should be directed to the executive secretary of Tribal Council in Siletz and should be submitted by Aug. 3. If you have any questions regarding the ordinance or the comment procedures, please contact the office of the executive secretary to Tribal Council.

DEBT COLLECTION SILETZ TRIBAL CODE 4.400

/4.401 GENERAL PROVISIONS

- (a) Name. This Ordinance shall be known as the Siletz Debt Collection Ordinance.
- (b) Findings. The Siletz Tribal Council finds that because of the expanded economic development of the Siletz Tribe and the increase in service and business transaction between the Tribe and tribal members, employees and other persons, the indebtedness of such individuals and entities to the Tribe has increased. This increase has resulted in a large number of accounts receivable owed to the Tribe by members, employees and others resulting in restricted availability of program services and products to other members, employees and the local community. The Tribal Council finds that it is obligated to find ways to expedite the repayment of debts to the Tribe so that these programs and enterprises can continue to provide services and products.

/4.402 DIVIDEND PAYMENT

- (a) Execution/Collection of Debt.
Unless otherwise provided by the Tribal Council:
 - (1) The Siletz Tribal General Manager, pursuant to the Tribal Garnishment Ordinance, shall have the authority and power to offset debts owed to the Tribe from member per capita payments/dividend payments in accordance with the Tribal Garnishment Ordinance;
 - (2) The Tribal Court and all the judges thereof shall have the authority and power to order that all per capita payments/dividends of judgment debtors, as authorized by 25 U.S.C.A. /117b, be available for execution of judgment and to order appropriate tribal or federal officials to seize and all per capita payments/dividends of judgment debtors which may arise in the present or future, as much of said payments/dividends as appears necessary to satisfy any judgment of the Tribal Court where the Confederated Tribes of the Siletz, as party plaintiff, was awarded money damages or money judgment for payment of contracted obligations, contracted indebtedness, or otherwise.
- (b) Name of Debtor/Notice. Within 10 days after the official date of entitlement cut off for a dividend payment, the Manager or Director of any department wishing to collect on a debt owed to the Tribe by a tribal member shall forward the name and amount of the debt of such member to the Enrollment Department. Within 10 days after receiving the name of a tribal member currently indebted to the Tribe, including the amount of such indebtedness, the Tribal Enrollment officer shall cause a notice to be sent out to the Tribal member, which notice shall be substantially in the following form:
- (c) Tribal records show that you owe the (name of tribal program) the sum of \$ as of (date). Unless it is paid in full, immediately, it will be withheld from your share of the next Tribal dividend payment. The amount withheld will then be credited towards your debt. If you believe the amount of the debt shown to be incorrect or if you have any other reason to question the debt, you must file an action in Tribal Court to contest this matter within 7 days after the date of this notice. If you do not bring such an action, the amount of debt will be withheld from your dividend payment.
- (d) Tribal Court Action. If an action is commenced in the Tribal Court within the time period set out above, a hearing shall be held within 5 days after the filing of the action to determine the validity of the debtor's claim. The decision of the Tribal Court shall be final.

- (e) Debt Credit. The Tribal Enrollment officer shall be responsible for informing the tribal employee or officer who issues dividend payment checks of the names of debtors and the amounts of debt so that these amounts may be withheld from the next dividend payment. The Tribal Enrollment officer shall also have the duty of notifying the respective Tribal programs and enterprises of the amounts to be credited to each debtor after funds are withheld from the Tribal dividend payment.

/4.403 EXECUTION OF JUDGMENTS

- (a) Procedure
Following a money judgment issued in the Siletz Tribal Court against any party and after the time for appeal has run, upon good cause shown to the Tribal Court that a judgment debtor to another party has not paid the judgment amount in full or is not making payments in a manner agreed to by the parties or required by the Court, the judge shall order such debtor to appear before him and answer under oath regarding his personal property. The judge shall then determine what property of the judgment debtor is available for execution and order the tribal law enforcement to seize as much of the property as reasonably appears necessary to pay the judgment. Failure of the judgment debtor to appear may be deemed a contempt of court and the judge may proceed without his appearance.
- (b) Sale of Property
Sale of the seized property shall be at public auction conducted by tribal law enforcement after giving at least ten days public notice in the Tribal Offices at Siletz, Portland, Springfield and Salem. Property shall be sold in a commercially reasonable manner to the highest bidder. Payment for the property and transfer of title shall take place after the retention period has expired, as described below. If the sale results in a price higher than the debt plus expenses of sale, the debtor shall be given the surplus. The judgment shall continue in effect in the amount not recovered at the sale, plus expenses of the sale.
- (c) Exemption from Execution
The judge shall order seizure and sale of only such property of the judgment debtor as will not impose an immediate and substantial hardship on his immediate family. Only property of the judgment debtor himself may be subject to execution and not property of his family or other person in his immediate household.
- (d) Redemption
At any time within fourteen (14) days after the sale under (b) above, the judgment debtor may redeem the sold property by paying the judgment amount in full, plus expenses of the sale. Upon such payment, the property shall be returned to the judgment debtor and the purchaser shall be notified that the property has been redeemed.

/4.404 ENFORCEMENT OF COURT ORDERS

The Tribal Council and/or the General Manager shall be authorized to instruct tribal legal staff to follow applicable procedures to obtain enforcement of Tribal court judgments and re-payment of debts owed to the Tribe in other tribal, federal and state courts through garnishment, execution or other measures in accordance with tribal, federal or state law.

/4.405 SEVERABILITY

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

/4.406 EFFECTIVE DATE

This Ordinance shall be effective from the date of its adoption by the Tribal Council.