

TRIBAL COUNCIL ACT 3.4

AN ACT RELATING TO

RECOGNITION AND ENFORCEMENT OF FOREIGN COURT ORDERS

BE IT ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL

SECTION 1.0 - TITLE AND CODIFICATION

This Chapter shall be known as the Recognition and Enforcement of Foreign Court Orders Act and shall be codified as Title 3, Chapter 4 of the Snoqualmie Tribal Code.

SECTION 2.0 - STATUTORY AUTHORIZATION

The aboriginal and inherent sovereign power to govern the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council. The Snoqualmie Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe, and by providing for the enactment and enforcement of the laws of the Tribe. Snoq. Tr. Const. Art. VIII, Section I (j). This authority includes the ability to provide for the laws and procedures governing the operation of the Snoqualmie Tribal Court. Snoq. Tr. Const. Art. VIII, Section 1(k).

SECTION 3.0 - PURPOSE; SCOPE; FINDINGS OF FACT

The purpose of this Chapter is to establish procedures for the recognition and enforcement of foreign court orders on Snoqualmie Tribal lands. Because the Tribe is a sovereign government that has not generally submitted to the jurisdiction of foreign courts, the Tribe is not legally obligated to comply with orders issued by foreign courts. However, pursuant to this Chapter, the Snoqualmie Tribal Court shall henceforth have the authority to give full faith and credit to certain orders from foreign jurisdictions. The Snoqualmie Tribal Council makes the following findings of fact:

- (a) The Snoqualmie Indian Tribe is a sovereign government that has not submitted to the jurisdiction of foreign courts;
- (b) The Snoqualmie Indian Tribe is not legally obligated to comply with orders issued by foreign courts in proceedings; and
- (c) Most judgments of foreign courts will only be enforced by the Tribe by using the procedures available in the Tribal Court;
- (d) The Snoqualmie Tribal Council desires to protect the Tribe's sovereignty by creating a process whereby foreign court orders can be enforced on Snoqualmie Tribal lands solely by being recognized by the Snoqualmie Tribal Court; and

- (e) The Snoqualmie Tribal Council believes that it should take steps to ensure that orders of the Snoqualmie Tribal Court are entitled to reciprocal full faith and credit by foreign jurisdictions; and
- (f) It is the policy of the Snoqualmie Indian Tribe that parents should financially support their children to the best of their ability; and
- (g) It is the policy of the Snoqualmie Indian Tribe that individuals should be financially responsible and should make efforts towards paying their debts which they lawfully owe.

SECTION 4.0 - DEFINITIONS

ATTORNEY means an individual who is admitted to practice before the courts of any state or Indian tribe.

CHILD SUPPORT ORDER means any judgment, decree, or order issued as a permanent or amended permanent order for child support, child care support and/or medical support.

COURT means the Snoqualmie Tribal Court, unless the context indicates otherwise.

CREDITOR means a person to whom a debt is owed by another person who is the debtor.

DEBT means a sum of money due by certain and express agreement, including a specified sum of money owing to one person from another, including not only obligations of a debtor to pay, but a right of a creditor to enforce and receive such payment.

DEBTOR means a person who owes a debt to another and may be compelled to pay a claim or demand by a creditor.

DISPOSABLE WAGES means that part of the wages of an individual left after deduction of legally required withholdings, including federal taxes, and any other amounts required by applicable law to be withheld by the employer.

EMPLOYEE means a part or full-time employee or agent of the Snoqualmie Indian Tribe, when acting during the course of and within the scope of their employment. The term includes officers and directors of the Tribe when they are acting to fulfill their duties to the Tribe. For purposes of this Chapter, the term "employee" shall also include Council members. This term does not include agents or representatives of the United States or the State of Washington, or any of their political subdivisions.

EMPLOYER means the Snoqualmie Indian Tribe or any Tribal governmental components, subordinate instrumentalities, agencies, or entities.

FINAL JUDGMENT means a decision of a court that settles the rights and obligations of the parties and disposes of all issues in controversy preventing re-litigation of the issues.

FOREIGN COURT means any court other than the Snoqualmie Tribal Court, including state, Tribal, Federal courts, or courts of any foreign country.

FOREIGN JUDGMENT means any judgment, decree or order rendered by a court of any state, and any federal or Tribal court within the territory of the United States of America other than the Snoqualmie Tribal Court.

GAMING FACILITY or GAMING FACILITIES means any room or rooms in which Class II Gaming or Class III Gaming is conducted on Snoqualmie Tribal lands.

GAMING OPERATION means any Class II or Class III Gaming conducted by the Snoqualmie Indian Tribe pursuant to Tribal law.

GARNISHMENT means the method to obtain satisfaction of a judgment by requiring an employer to withhold the unpaid past or future wages of an employee of the Snoqualmie Indian Tribe or any Tribal governmental components, subordinate instrumentalities, agencies, or entities. Garnishment shall not include voluntary wage assignments or deductions by employees of the Snoqualmie Indian Tribe.

IRS means the Internal Revenue Service within the United States Department of the Treasury.

JUDGMENT CREDITOR means a person in whose favor a money judgment has been entered by a court of competent jurisdiction and whose debt has not yet been satisfied.

JUDGMENT DEBTOR means a person against whom a judgment requiring satisfaction of a debt has been rendered, and which remains unsatisfied.

OFFICER means an officer, whether elected or appointed, whether paid or unpaid, when acting during the course of and within the scope of their authority granted by the Tribe.

PARTY means a person or entity concerned with or having been subject to a judgment, order, decree, warrant, subpoena, or other judicial act of a foreign court.

RENDERING JURISDICTION means the jurisdiction in which the foreign judgment was entered.

SNOQUALMIE TRIBAL FACILITIES include all facilities that house Snoqualmie Tribal offices, departments, businesses, entities and employees of any kind whatsoever, whether or not the facilities are located on Snoqualmie Tribal land, including Snoqualmie Casino.

SNOQUALMIE TRIBAL LANDS OR TRIBAL LANDS include lands over which the Snoqualmie Tribe exercises jurisdiction, including but not limited to, the initial reservation, trust lands (Tribal and individual), lands subject to treaty-reserved rights, and lands within the federal definition of "Indian Country" set forth in 18 U.S.C. § 1151.

SUBPOENA means a judicial order commanding a person to appear before a court to testify or produce other evidence, specific documents, records or things, or to make a sworn statement at a time and place other than at a trial. A subpoena has a penalty (typically contempt of court) for lack of compliance.

TRIBAL COUNCIL means the Snoqualmie Tribal Council, the governing body of the Snoqualmie Indian Tribe duly elected by the General Membership in accordance with the Snoqualmie Tribal Constitution.

TRIBAL COURT means the Snoqualmie Tribal Court, established pursuant to the Snoqualmie Tribal Constitution.

TRIBE means the Snoqualmie Indian Tribe, including but not limited to any office, department, agency, commission, authority, instrumentality, enterprise, corporation, or other entity of the Snoqualmie Indian Tribe.

WAGES mean compensation paid or payable by the employer for their personal and professional services of an employee, whether denominated as wages, salary, commission, bonus or otherwise. For purposes of this Chapter only, wages do not include Council member stipends or honoraria.

WARRANT means a judicial order directing or authorizing someone to do an act, including directing a law enforcement officer to make an arrest, search, or seizure.

SECTION 5.0 - RECOGNITION OF FOREIGN COURT ACTIONS

5.1 VALIDITY OF COURT ACTIONS

The judgments, orders, warrants, decrees, subpoenas, records of a foreign court, and other judicial actions are presumed to be valid and will have the same effect as Tribal Court orders, judgments, decrees, warrants, subpoenas, records and actions, provided that the individual or entity seeking recognition of the foreign court order complies with the provisions of this Chapter. All foreign court orders, judgments, decrees, warrants, subpoenas, records and actions shall be subject to the same procedures, defenses, and proceedings as those of the Tribal Court, subject to the provisions of this Chapter.

5.2 RECIPROCAL RECOGNITION

The recognition described in this Chapter applies only if the foreign court provides reciprocal recognition and enforcement of Tribal Court judgments, orders, decrees, warrants, subpoenas, records, and other judicial acts.

5.3 OVERCOMING PRESUMPTION OF VALIDITY

To overcome the presumption of validity set forth in section 5.1 of this Chapter, a person must demonstrate that they are subject to the foreign court action, and:

- (a) the foreign court lacked personal or subject matter jurisdiction; or
- (b) the judgment, order, decree, warrant, subpoena, record, or other judicial act of the foreign court:
 - (1) was obtained by fraud, duress, or coercion;

- (2) was obtained without reasonable notice;
- (3) was obtained without a fair hearing;
- (4) is repugnant to the public policy or laws of the Tribe;
- (5) is not final pursuant to the laws and procedures of the foreign court;
- (6) was obtained in a manner that denied due process to a party as provided by the Indian Civil Rights Act of 1968;
- (7) was obtained by a court that does not reciprocally provide for recognition and implementation of Snoqualmie Tribal Court orders, judgments and decrees;
- (8) was rendered under a legal system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
- (9) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend the matter;
- (10) was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; or
- (11) conflicts with another final and conclusive judgment.

5.4 FULL FAITH AND CREDIT

This Chapter does not apply to judgments or orders that federal law requires be given full faith and credit.

SECTION 6.0 - PROCEDURES FOR RECOGNITION OF FOREIGN COURT ORDERS

The provisions of this section shall apply to the recognition of foreign court orders, except for warrants and subpoenas, which shall be recognized in accordance with sections 7.0 and 8.0, respectively.

6.1 PETITION FOR RECOGNITION

A person seeking recognition of a foreign court order shall file a petition in Tribal Court seeking recognition of the foreign court order. The Petition shall be accompanied with a certified copy of the foreign court order and shall include the following information:

- (a) the name and last known address of the Petitioner;
- (b) the name and last known address of the Respondent;
- (c) proof that the foreign court order to be recognized is final, with no appeal pending;

- (d) a statement that no subsequent orders vacating, modifying or reversing the foreign court order have been entered in the rendering jurisdiction; and
- (e) proof that the person against whom the court action has been rendered is subject to the jurisdiction of the Tribal Court with regard to the enforcement of the foreign court action.

6.2 FILING FEE

The Clerk of the Court shall require a person who files a petition seeking recognition of a foreign court order to pay a reasonable filing fee.

6.3 NOTICE

Upon the filing of the petition for recognition of a foreign court order in accordance with section 6.1 of this Chapter, the Tribal Court Clerk shall mail (by first class mail, postage pre-paid) a notice to the Respondent, along with a copy of the Petition and certified foreign court order, to the address provided by the Petitioner. The notice shall include the following information:

- (a) the name and address of the Petitioner or the Petitioner's attorney, if any; and
- (b) a statement giving notice to the Respondent that an order granting recognition of the foreign court order shall be entered by the Tribal Court unless the Respondent files a written objection with the Tribal Court within twenty-one (21) days of service of the notice on the Respondent.

6.4 WRITTEN OBJECTION

A Respondent has twenty-one (21) days after receiving notice of the petition to file a written objection to recognition of the foreign court order. Any objection filed must include statements setting forth the basis for the objection and shall be served upon the Petitioner (or the Petitioner's attorney, if any) by first class mail, postage pre-paid.

6.5 OBJECTION HEARING

Upon the filing of a written objection, the Tribal Court shall schedule a hearing on the next available Court calendar day. The Tribal Court shall provide the parties with notice of the time, date and place of the hearing. At the hearing, the Respondent has the burden of proving by clear and convincing evidence that the foreign court order should not be recognized by the Tribal Court. To overcome the presumption of validity, the Respondent must meet the requirements of section 5.3(b) of this Chapter.

6.6 ORDER

If no written objection is filed by the Respondent within the time period set forth in section 6.4 of this Chapter, the Tribal Court shall enter an order granting the petition for recognition of the foreign court order. Otherwise, the Tribal Court shall enter an order either granting or denying the petition seeking recognition of the foreign court order. The order shall be a final order subject to appeal to the Snoqualmie Tribal Court of Appeals.

6.7 POST JUDGMENT PROCEEDINGS

Following entry of an order granting recognition of a foreign court order, the Petitioner may enforce that order in any manner legally available to the Petitioner, including post-judgment proceedings.

SECTION 7.0 - PROCEDURES FOR PRESENTATION OF FOREIGN COURT ARREST WARRANTS

RESERVED.

SECTION 8.0 - FOREIGN SUBPOENAS

8.1 RECOGNITION OF COURT-ISSUED SUBPOENAS

The subpoenas of a Foreign court or subpoenas recognized under Foreign law shall be recognized by the Snoqualmie Tribal Court and have the same effect and are subject to the same procedures, defenses, and proceedings as subpoenas of the Snoqualmie Tribal Court, subject to the provisions of this Section.

8.2 ENFORCEMENT OF A FOREIGN COURT SUBPOENA

- (a) Before any Foreign court subpoena can be served on the Tribe, a Tribal entity, a Tribal member, other person under the jurisdiction of the Snoqualmie Indian Tribe, or a custodian of Tribal records, the person seeking to enforce a Foreign court subpoena must obtain a Snoqualmie Tribal Court Order recognizing and enforcing the subpoena. The person or entity seeking to enforce a Foreign court subpoena shall be required to promptly file and submit to the Snoqualmie Tribal Court all of the following documents and materials:
 - (1) A Motion For Order to Issue Foreign Court Subpoena, which shall state the title of the action, name of the court in which the action is pending, the case number, the name and address of the person to whom the subpoena is directed, and what action is requested of the person (appearance or production of documents); and the date the action is required to be satisfied;
 - (2) A copy of the Foreign court subpoena; and
 - (3) Fifty dollar (\$50.00) filing fee to the Snoqualmie Tribal Court.
- (b) Upon completion of the foregoing process, the Tribal Court judge shall sign a form that orders compliance with the Foreign court subpoena. The Court will return the signed form to the issuing party. The issuing party is responsible for serving the subpoena in compliance with Section 14.1 of the Snoqualmie Judiciary Act.
- (c) Any objections to the issuance of the subpoena under must be filed with the Tribal Court within 14 days of service of the subpoena.

- (d) If an objection is brought within 14 days, the Tribal Court may take evidence or hold a hearing upon the merits of the objections to the subpoena. The Tribal Court reserves the right to order to quash or modify the subpoena consistent with applicable law.

8.3 LAW ENFORCEMENT REQUESTS FOR INFORMATION TO TRIBE OR TRIBAL ENTITIES

Nothing in this Chapter shall prevent the Snoqualmie Tribe or any Snoqualmie Tribal entity from releasing information directly to any non-tribal law enforcement agency which is responding to a request for information, summons or call made by the Snoqualmie Tribe or Snoqualmie Tribal entity to that agency or to any follow-up investigation related to that request for information, summons or call. The Snoqualmie Tribe and any Snoqualmie Tribal entity may only respond to a request for information from a non-tribal law enforcement agency either on a form approved by the Snoqualmie Tribe or any Snoqualmie Tribal entity, or the upon receipt of the request which shall be made in writing, on agency letterhead, and with all of the following relevant information provided, unless otherwise noted:

- (a) Date of Incident;
- (b) Date of Request;
- (c) Time of Incident (if applicable);
- (d) Agency case number;
- (e) Tribe or tribal entity internal case number (if applicable);
- (f) Name of person at agency whom is sending the Request for Information; and
- (g) Description of the information requested.

The Snoqualmie Tribe and Snoqualmie Tribal entities reserve the right to notify non-tribal law enforcement agencies of a time deadline in which to respond to a request for information. Such time deadline shall not exceed fourteen (14) days after receipt of a request from non-tribal law enforcement agencies.

SECTION 9.0 - GARNISHMENT OF WAGES

- (a) In a civil action for garnishment filed by a judgment creditor, the court may order garnishment of unpaid past or future wages of the judgment debtor for satisfaction of the judgment. No garnishment action shall be filed for recognition in the Snoqualmie Tribal Court unless the judgment remains unsatisfied sixty (60) days after the judgment was entered.
- (b) The maximum amount of wages subject to garnishment in any one pay period shall be twenty-five percent (25%) of the judgment debtor's disposable wages for one pay period consistent with applicable federal law.

- (c) A garnishment order recognized by and/or rendered by the Snoqualmie Tribal Court against an employee of the Snoqualmie Indian Tribe shall lapse when the judgment is satisfied or when the judgment debtor resigns or is dismissed from his employment with the Snoqualmie Indian Tribe. If the judgment debtor is rehired by the Snoqualmie Indian Tribe within ninety (90) days after such resignation or dismissal, the garnishment order shall continue in full force and effect.
- (d) No employer shall discharge an employee for the reason that a judgment creditor of the employee has garnished or attempted to garnish unpaid earnings of the employer.
- (e) Wages earned for services performed by Snoqualmie Tribal Council members in their capacities as Council members are hereby exempt from garnishment. This exemption does not apply to wages earned by Snoqualmie Tribal Council members for Tribal jobs outside of their work as Council members.
- (f) Valid foreign court orders for garnishment of wages of Snoqualmie Casino employees are exempt from the requirement to be recognized through the Snoqualmie Tribal Court. The Snoqualmie Casino shall process such orders itself. All other requirements of this section remain in effect.

SECTION 10.0 - ADMINISTRATIVE PROCESSING FEES

The Tribe's Finance Department shall have the right to assess a \$5.00 processing fee upon the judgment debtor for each pay period of garnishment of wages of an employee of the Snoqualmie Indian Tribe. The Snoqualmie Casino, in its discretion, may charge for the cost of producing any information pursuant to this Chapter.

SECTION 11.0 - CHILD SUPPORT ORDERS EXEMPT

All child support orders rendered against an employee of the Snoqualmie Indian Tribe issued by the court of any state or Tribe shall be exempt from the requirements of this Chapter. Any such child support order shall be enforced by the Tribe and Tribal entities without restrictions upon presentation of a certified copy of the order to the Snoqualmie Indian Tribe's Human Resources Department, or the appropriate representative at the Tribal entity by which the judgment debtor is employed.

SECTION 12.0 - IRS NOTICE OF LEVY EXEMPT

All Notices of Levy on Wages, Salary, and Other Income (currently Form 668-W(ICS)) issued by the Internal Revenue Service ("IRS") shall be exempt from the requirements of this Chapter. Any such notice shall be enforced by the Tribe and Tribal entities with restrictions upon presentation of a certified copy of the order to the Snoqualmie Indian Tribe's Human Resources Department, or the appropriate representative at the Tribal entity by which the judgment debtor is employed.

SECTION 13.0 - GRANDFATHER CLAUSE

Compliance with the requirements of this Chapter is waived with respect to those foreign court actions that have already been implemented or accepted by the Tribe or any Tribal entity on or before June 1, 2010.

SECTION 14.0 - SEVERABILITY

If any part of this Chapter is found to be invalid by any court of competent jurisdiction, all remaining valid parts are severable and shall remain in full force and effect.

SECTION 15.0 - SOVEREIGN IMMUNITY

Unless otherwise specified explicitly and clearly in this Chapter, nothing herein shall be construed to be a general waiver of the Tribe's sovereign immunity.

SECTION 16.0 - SAVINGS CLAUSE

This Chapter does not prevent the recognition or non-recognition of a foreign judgment under circumstances not covered by the provisions of this Chapter.

ENACTED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 17TH DAY OF JUNE, 2010 IN SESSION DULY MET WITH 5 FOR, 0 AGAINST AND 0 ABSTAINING. RESOLUTION NO. 121-10.

AMENDED BY THE SNOQUALMIE TRIBAL COUNCIL ON THE 11TH DAY OF JULY, 2012 IN SESSION DULY MET WITH 5 FOR, 0 AGAINST, AND 0 ABSTAINING. RESOLUTION NO. 85-2012.

FURTHER AMENDED BY THE SNOQUALMIE TRIBAL COUNCIL ON 27TH DAY OF JUNE, 2013 IN SESSION DULY MET WITH 8 FOR, 0 AGAINST, AND 0 ABSTAINING. RESOLUTION NO. 129-2013.

CODIFIED AS AMENDED BY THE TRIBAL SECRETARY ON THE 7 DAY OF August, 2013.


TRIBAL SECRETARY