

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution 07-066 (June 25, 2007)*

FINANCIAL RESPONSIBILITY CODE

CONFEDERATED TRIBES
OF THE
UMATILLA INDIAN RESERVATION

FINANCIAL RESPONSIBILITY CODE

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CHAPTER 1. GENERAL MATTERS

SECTION 1.01. JURISDICTION

- A. The Umatilla Tribal Court shall have exclusive jurisdiction to hear any civil action involving the ownership of, or right to possess, use, or foreclose upon, any land in trust or restricted status.
- B. The Umatilla Tribal Court shall have jurisdiction to hear any civil action where one or both of the parties to the action are Indian and which:
 - 1. Involves a debt or contractual obligation arising or occurring within the territorial jurisdiction of the court; or
 - 2. Involves the right to possession or the ownership of any personal property within the territorial jurisdiction of the court.
- C. The Umatilla Tribal court shall have jurisdiction and authority to hear, recognize and enforce or refuse to recognize and enforce foreign judgments against any person who resides or is domiciled on the Umatilla Reservation and who is properly within the jurisdiction of this court.
- D. No action shall be heard where the underlying debt, contractual obligation, or question of ownership or right to possession of personal property arose more than 10 years prior to the commencement of the action.

SECTION 1.02. DEFINITIONS

- A. "Contract" shall mean a promissory agreement between two or more persons, supported by consideration, to do or not to do a particular thing, or which creates, modifies or destroys a legal obligation.
- B. "Court" shall mean the Umatilla Tribal Court as established by the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation.
- C. "Debt" shall mean a sum of money or a quantity of property due by certain and express agreement where the amount is fixed and specific and does not depend on any subsequent valuation to settle it.
- D. "Default Judgment" shall mean a judgment rendered by the Court because a defendant failed to file a pleading or appear before the Court at the appointed time.
- E. "Execution" shall mean a proceeding whereby the personal property belonging to and in the possession of a judgment debtor is attached by Order of the Court to be held for public sale in order to satisfy all or part of a judgment rendered by the Court against the debtor, or to satisfy all or part of a foreign judgment properly recognized by the Court.
- F. "Exempt Property" shall mean any property held in trust by the Bureau of Indian Affairs or income derived therefrom, as well as any property, wages or other which is protected from execution, attachment or levy in satisfaction for a judgment debt by federal statute or by section 4.10. Property subject to a filed security interest or purchase agreement shall not be exempt from attachment or legal repossession. Trust or restricted property which has been properly mortgaged pursuant to 25 U.S.C. §483a, 12 U.S.C. §1715z-13 and 12 U.S.C. §1715z-13a and which is the subject, pursuant to that mortgage, of a foreclosure action in this court shall not be considered exempt for the purposes of that action only.

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- G. “Foreign Judgment” shall mean any final judgment, order or decree rendered or issued by a Court not a court of the Confederated Tribes of the Umatilla Indian Reservation. For the purposes of this Code, Foreign Judgment shall also include administrative orders for arrearages or unpaid child support issued by the Support Enforcement Division or its equivalent of any state.
- H. “Garnishee” shall mean the person, other than the defendant or judgment debtor, against whom the process of garnishment is issued, and who has property, including money, credits or salary in his possession belonging or owed by him to the judgment debtor; notice having been given to the garnishee not to deliver or pay the property, money or credits over to the judgment debtor until the result of the garnishment proceeding is determined.
- I. “Garnishment” shall mean a proceeding whereby a judgment debtor's money, or credits including salary, in possession of, under the control of, or owing by a third person to the judgment debtor are sought to be applied to payment of the debt to the judgment creditor by properly authorized process against the judgment debtor.
- J. “Judgment Creditor” shall mean one who has obtained a judgment against his debtor, under which he can enforce its execution.
- K. “Judgment Debtor” shall mean one against whom a judgment on a debt has been rendered and which debt remains unsatisfied, and shall include a judgment debtor's successors in interest.
- L. “Legal Holiday” shall include New Year's Day, Independence Day, Memorial Day, Labor Day, Veteran's Day, Presidents' Day, Thanksgiving Day, Christmas Day, Martin Luther King Day, National Indian Day, and any other day appointed as a holiday by the President, the Congress of the United States, or the Umatilla Tribal government.
- M. “Person” shall mean women as well as men and may include artificial beings such as a corporation, or a tribal entity, corporation, organization or association where the sovereign immunity from suit of such tribal entity, organization or association has been properly waived.
- N. “Preponderance of the Evidence” shall mean the greater weight of the evidence or the evidence which is more believable and convincing.
- O. “Reservation” shall mean the exterior boundaries of the Umatilla Indian Reservation as defined by the Treaty of June 9, 1855, 12 Stat. 945.

CHAPTER 2. FILING A COMPLAINT

SECTION 2.01. FILING OF COMPLAINT; ANSWER; SETTING OF HEARING

- A. A civil action brought pursuant to this code shall be commenced upon the filing of a complaint in the Umatilla Tribal Court. The complaint shall include the following information:
1. Name and address of the plaintiff;
 2. Name and address or place of residence of the defendant;
 3. A brief and concise statement of the nature and/or amount of the plaintiff's claim and the time the claim accrued;

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4. A signed statement by the plaintiff stating that the plaintiff made a good faith effort to have the claim satisfied by the defendant before filing the complaint with the Court;
 5. A sworn verification by the plaintiff of the truth of the complaint.
 6. In an action involving the right to possession under a lease or other form of tenancy, a statement that the plaintiff gave the defendant written notice to vacate and deliver possession of real property to the plaintiff, an indication of the amount of time given in which to vacate and deliver possession, and a copy of the written notice.
- B. Within fourteen (14) days following the filing of the complaint, the Court shall issue a summons directing the named defendant to file with the Court an answer to the complaint. The Court shall deliver the summons and a copy of the complaint for service on the defendant.
- C. The defendant shall have thirty (30) days from the date of service of the summons and complaint to file an answer to the complaint. Failure to answer, or failure to appear at the hearing following summons, will result in a default judgment against the defendant.
- D. Any party to an action filed pursuant to this Code may use the appropriate complaint or answer form provided by the Court.
- E. Within 15 days following the filing of the answer, the Court shall issue summons directing the plaintiff and defendant to appear before the Court on the date set for trial, as indicated in the summons. A copy of defendant's answer shall be attached to the summons served on the plaintiff.
- F. If the defendant fails to appear at the hearing, he shall be found in default and a default Order entered against him. If the plaintiff fails to appear at the hearing following summons setting the date for trial, the Court shall dismiss the action for failure to prosecute. Dismissal shall be with or without prejudice at the Court's discretion.

SECTION 2.02. SERVICE

- A. Service of the summons and pleadings shall be made by either of the following methods:
1. By an officer of the Umatilla Tribal Police Department, an officer of the Bureau of Indian Affairs commission by the Tribe, or by any person certified as an officer of the Court authorized to make personal service delivering the summons and pleading to the named party personally;
 2. By the Court Clerk sending the summons and a copy of the pleading to the named party by certified mail, return receipt requested, and with "Deliver to Addressee Only" stamped on the envelope.
- B. Proof of service shall be maintained as part of each case file. When the party has been served personally, an affidavit of service shall be returned to the Court Clerk and filed in the Court records. When service is obtained by mail, the return receipt of the delivery shall be made a part of the Court records.

SECTION 2.03. SUBPOENA

- A. On motion of any party to the case, or on the Court's own motion, the court may issue subpoenas to compel the attendance of witnesses or the production of documents or tangible objects necessary to the determination of the case.

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- B. A subpoena may be served only by those persons listed and in the manner provided in section 2.02(A)(1) of this Code.
- C. A proof of service shall be filed with the Court by the person serving the subpoena.
- D. Failure by any person without adequate explanation to comply with a subpoena duly served upon him may be deemed in contempt of Court and punished as provided for in section 5.02 of this Code.

SECTION 2.04. COURT COSTS

- A. A schedule for determining fees, costs and other expenses pursuant to this Code shall be made available to any person requesting same from the Court Clerk.
- B. In order to file a complaint pursuant to this Code, the plaintiff shall pay a filing fee to the Court Clerk.
- C. Court costs for each case going to trial shall accrue on a per day basis to be charged against the losing party at the close of the trial.
- D. The cost of serving the summons and pleading on a party shall be determined on a per mile basis, except that when service is made by a Bureau of Indian Affairs Officer no cost for service shall accrue.
- E. Any other costs expended by a party in an action brought pursuant to this Code shall be properly documented to the Court when reimbursement for same is sought.

CHAPTER 3. PROCEDURES

SECTION 3.01. REPRESENTATION

It shall be proper for any part to an action filed pursuant to this Code to be represented by an attorney at his own expense.

SECTION 3.02. THE TRIBE AS A REAL PARTY IN INTEREST

It shall be appropriate for any organization or department in the governmental structure of the Umatilla Tribe to file a complaint pursuant to this Code on behalf of the real party in interest; namely, the Confederated Tribes of the Umatilla Indian Reservation, in order to collect on a debt or to seek enforcement of a contractual obligation owed to the complaining tribal organization or department. The director, chairman, or person in charge of the complaining tribal organization or department shall be the proper person to initiate a complaint pursuant to this section.

SECTION 3.03. TRIAL BY COURT

There shall be no right to a jury trial in actions brought pursuant to this Code. Upon the filing of pleadings the Court shall set a date for a trial of the case, and the trial shall be to the court. The Court shall determine all issues of fact and law based upon the testimony and evidence submitted, and render a judgment for either the plaintiff or defendant. The judgment of the Court shall be final.

SECTION 3.04. BURDEN OF PROOF

The plaintiff shall have the burden of proving the allegations in his complaint by a preponderance of the evidence.

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SECTION 3.05. RULES OF EVIDENCE

Although not mandatory, the Federal Rules of Evidence may govern the introduction and use of evidence in all cases before the Court. However, all material and relevant evidence which the Court deems proper and necessary for reaching a true and just verdict shall be admitted.

SECTION 3.06. CONTINUANCE

The Court may grant a continuance in any action brought pursuant to this Code when it deems the interests of justice will thereby be served.

SECTION 3.07. COMPUTATION OF TIME

In computing any period of time, the date of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday. When a period of time prescribed or allowed is less than seven days, intervening Saturdays, Sundays and legal holidays shall be excluded in the computation.

CHAPTER 4. JUDGMENTS; ATTACHMENTS; GARNISHMENTS

SECTION 4.01. JUDGMENTS

- A. Where either party prevails in an action pursuant to this Code, the Court shall enter a judgment consisting of an Order for relief which the Court deems just and proper. Such an Order may include, but is not limited to: directing payment to the plaintiff for the monies found owing him; awarding money damages to be paid to the injured party; ordering a party to deliver possession of real or personal property to another party within a prescribed period of time; ordering the performance of the action contracted for or performance of some other act for the benefit of the injured party; finding in favor of the defendant.
- B. Upon failure of the defendant to respond to the complaint or appear before the Court on the date set for trial, the Court may render a default judgment against the defendant, provided evidence is offered by the plaintiff indicating that the defendant was validly served with the summons and complaint, and proof is offered substantiating plaintiff's claim for relief.
- C. Upon failure of the plaintiff to appear in Court on the date set for trial following summons, the Court shall dismiss the action for failure to prosecute. Such dismissal shall not bar the plaintiff from refileing his complaint with the Court, unless the Court orders otherwise. Dismissal with or without prejudice shall be at the Court's discretion.

SECTION 4.02. COSTS ALLOWED

Unless otherwise directed by the Court, the party against whom judgment is entered shall be liable to the prevailing party for all court costs incurred in the action, including filing fees, service fees, expenses of witnesses, attorney fees, and any other incidental costs.

SECTION 4.03. SATISFACTION OF JUDGMENT

If the judgment is against a party to make payment or to otherwise satisfy the judgment, the party shall act without delay upon the terms and conditions prescribed by the Court.

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SECTION 4.04. ENFORCEMENT OF JUDGMENTS

Upon failure of a party to pay or otherwise satisfy the terms of the judgment rendered by the Court pursuant to this Code, the prevailing party may seek satisfaction of the judgment by the means provided in sections 4.05, 4.06, 4.07, and 4.08 of this Code, as appropriate.

SECTION 4.05. SUPPLEMENTARY PROCEEDINGS IN AID OF EXECUTION OF JUDGMENT

- A. Where a judgment debtor has failed, following entry of a judgment debt, to make any attempts to satisfy the judgment, a judgment creditor may, upon motion to the Court, obtain an Order requiring the debtor to submit to a debtors examination before the Court in the manner and following the procedures set out in subsection (B), or, without need for motion, by interrogatories in the manner and following the procedures set out in subsection (C), below.
- B. Oral Judgment Debtor Examinations
1. The judgment creditor may move the Court *ex parte* for an Order requiring the debtor to appear before the Court or a referee appointed by the Court at the time and place specified in the Order and answer under oath any questions concerning any property or interest in property the judgment debtor may have.
 2. The motion shall be supported by either a return of service of unsatisfied judgment or by return of service of a notice of demand to pay the judgment within 10 days, and an affidavit setting out the pertinent facts which would support granting of the motion. Service shall be made in the manner specified in section 2.02(A)(1) of this Code. A proposed Order shall accompany the motion.
 3. Upon granting of the Order, the Clerk of Court shall cause to be served upon the judgment debtor a certified copy of the Motion, supporting documents, and Order setting date and time for hearing. The Return of Service shall be made a part of the Court record. Where a Referee is appointed, or a place for hearing is set which is other than the Tribal Court, it shall be so noted on the Order.
 4. Notwithstanding any other provisions of this Code, upon recognition of the foreign child support order, the court clerk shall cause to be served on the judgment debtor a certified copy of the foreign child support order, supporting documents, if any, and an Order setting the date and time for a hearing to be held within 30 days of the Umatilla Tribal Court order recognizing the foreign child support order, unless continued for good cause.
 5. The Court may also, upon proper motion, include in the Order an Order restraining the judgment debtor from selling, transferring, assigning or in any manner disposing of any of his property liable to execution pending the examination, and may further order, upon proper motion, that the judgment debtor bring with him to the examination any documents relevant to the examination.
 6. The judgment debtor may, up to 5 days prior to the date set for appearance, on good cause shown request of the Court and Order that the proceedings not be held at the time and location indicated, or that it be held or some other designated time or place.
 7. Questioning shall be under oath, in the presence of a judge or appointed referee, in the manner of taking of a deposition.
 8. Failure of the judgment debtor to appear at the examination shall be grounds for summary punishment for civil contempt.

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9. Where the judgment debtor resides or has his principal place of business more than 50 miles from the exterior boundaries of the Reservation, examination shall be by interrogatory only.
10. If, on examination, it appears that the judgment debtor has any non-exempt property liable to execution under sections 4.06 or 4.07 of this Code, the Court may, upon motion of the judgment creditor, order the judgment debtor to apply the same in satisfaction of the judgment. Alternatively, the judgment creditor may proceed under sections 4.06 or 4.07 of this Code.

C. Examination on Interrogatories

1. In the alternative to examination before the Court, the judgment creditor may serve written interrogatories upon the judgment debtor concerning the judgment debtors property and financial affairs. Service shall be by certified mail, return receipt requested.
2. The interrogatories shall notify the judgment debtor that failure to answer truthfully or within the time specified shall subject the judgment debtor to the civil penalty for false swearing and/or contempt of court as provided in section 5.02 of this Code.
3. Within 20 days after receipt of the interrogatories, the judgment debtor shall answer all interrogatories to the judgment creditor or his attorney, and shall retain a copy of his answers.

SECTION 4.06. ATTACHMENT

- A. The judgment creditor may seek a Writ of Attachment upon any specific non-exempt personal or real property of the judgment debtor when such property is in the possession of the judgment debtor and is found within the jurisdiction of the Umatilla Tribal Court.
- B. The Writ shall specify the property to be seized and the amount owing to the judgment creditor. Such property is to be seized by a duly authorized tribal law enforcement officer and sold in order to satisfy all or part of the judgment. A copy of the Writ shall issue from the Clerk to the Tribal Department of Law Enforcement directing the seizure, holding for sale and sale of the property on a date fixed by the Court.
- C. A notice of Sale, a copy of the Writ of Attachment, and a Claim of Exemption form shall be mailed by the Clerk of Court to the judgment debtor by certified mail, and shall also contain notice of the law in this section prohibiting transfer or sale of the specified property. The Notice of Sale shall be posted at two public places within the reservation for fifteen (15) days prior to the sale by the Court. The sale shall be conducted by the Court Clerk or a duly authorized tribal law enforcement officer who shall issue a bill of sale for the property to the highest bidder in return for a cash amount, but not for less than the appraised value of the property.
- D. Any sale, transfer, assignment or other disposal of property or assets specified in the Notice of Sale and Writ of Attachment following receipt of same by the judgment debtor shall be invalid and shall further subject the judgment debtor to possible civil contempt proceedings.
- E. In no event shall a Writ of Attachment issue for seizure and sale of an individual's home as satisfaction for any judgment debt of \$5,000 or less, nor shall a Writ of Attachment issue for any exempt property as set out in section 4.10. Upon notice of sale being received by the judgment debtor, and no less than five (5) days prior to the date set for sale, the judgment debtor may file a Claim of Exemption with the Clerk of Court.

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- F. Upon receipt by the Court of a Claim of Exemption, a hearing will be set and held within three (3) court days to determine if any part of the Claim shall be allowed. Any part of the Claim which is disallowed, and thus found not exempt from attachment and sale, shall be indicated by the Court in its Order Granting Claim of Exemption. Upon completion of the hearing and entry of the Order Granting Claim of Exemption, any property found exempt shall be returned by the Tribal Law Enforcement Department to the judgment debtor and shall not be subject to any further action, attachment or sale in satisfaction of the debt for which it was originally attached, and the sale of remaining non-exempt property shall go forward on the date set.
- G. Proceeds of the sale of non-exempt property shall first go to satisfy the cost of the sale, second to any unpaid court costs, then to satisfy any portion of the judgment still owing and for which attachment was made. Any amount remaining after the above has been paid shall be paid over to the defendant.

SECTION 4.07. GARNISHMENT

- A. The judgment creditor may seek a Writ of Garnishment upon any specific non-exempt personal property of credits, including wages, salary, debts or other monetary obligations owed by another to the judgment debtor, and which is in the possession, custody or control of a third party and is found within the jurisdiction of the Umatilla Tribal Court, by filing a Request for Garnishment with the Court.
- B. The Request shall specify the amount owing to the judgment creditor, the judgment debtor's name and address, the date the judgment was entered, any amounts that have been paid in partial satisfaction of the judgment, and the name and address of the garnishee in whose possession, custody or control the subject matter listed in the Request for Garnishment may be found.
- C. A Notice of Garnishment (Appendix B) shall be served by the Clerk of Court on the garnishee, ordering the garnishee not to pay or deliver the credits, wages or salary owing to the judgment debtor over to the judgment debtor or judgment creditor until the result of the garnishment proceeding is determined. Where the garnishee is the judgment debtor's employer, there shall be included with the Notice of Garnishment an Earnings Exemption Computation Schedule in the form provided in Appendix D. The judgment debtor shall be served by the Clerk with a copy of the Notice and a Claim of Exempt Property form. The Notice shall also contain notice of the law prohibiting transfer of assets set out in section 4.06 above.
- D. The garnishee shall be required to file a Certificate of Garnishee in the form provided in Appendix C, which shall contain the amount and a description of any property of the judgment debtor which is in the garnishee's possession, custody or control at the time of service of the Notice. Where appropriate, a completed Earnings Exemption Computation Schedule shall also be filed. If the garnishee has no property of the judgment debtor in his possession at the time of service of the Notice, he shall so indicate on the Certificate. Such Certificate and Earnings Exemption Computation Schedule shall be filed with the Court within five (5) days from the date the garnishee was served with the Notice of Garnishment. A copy of the Certificate of Garnishee and, where appropriate, the Earnings Exemption Computation Schedule, shall be served by the garnishee by certified mail or personal service on the judgment creditor and the judgment debtor in the manner provided in section 2.02(B)(1). Where service is made by certified mail, the return address shall be that of the Court and the return receipt made part of the Court record.
- E. Within five (5) days of service on the judgment debtor of the Notice of Garnishment and Claim of Exemption form, but in no event more than 7 days after service, the judgment debtor may file a completed Claim of Exemption with the Clerk of Court.

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- F. Upon receipt by the Court of the Claim of Exemption, if one is filed, a hearing will be set and held within three (3) court days to review the Earnings Exemption Computation Schedule and to determine if all or part of the Claim shall be allowed. Any part of the Claim which is disallowed, and thus found not exempt from garnishment, shall be indicated by the Court in its Order Granting Claim of Exemption. If no Claim of Exemption is filed within the time period allowed, the Court shall enter the Writ based upon the Request for Garnishment, Certificate of Garnishee, and Earnings Exemption Computation Schedule. Upon completion of the hearing, the Court shall enter a final Writ of Garnishment subject to the exemptions and limits established by section 4.10. The Writ shall be served upon the garnishee, judgment creditor, and judgment debtor by the Clerk, and shall direct the garnishee to pay the judgment creditor that amount in his possession, custody or control which has not been found exempt and is indicated in the Writ.
- G. It shall be proper for the Court to issue a Writ of Garnishment against the Confederated Tribes of the Umatilla Indian Reservation when it is determined the Confederated Tribes qualifies as a garnishee for the wages of a tribal government employee, and for this limited purpose the Confederated Tribes shall not exert its immunity from suit.
- H. A Writ of Garnishment shall be effective for 1 year from the date of issuance or until the amount established in the Writ of Garnishment is satisfied, whichever is less. If the amount established in the Writ remains unsatisfied at the end of one year, the Writ may be renewed following the procedure set out in this section, and, if necessary, may be annually renewed thereafter pursuant to this section until the judgment debt is satisfied in full.

SECTION 4.08. WRIT OF RECOVERY

- A. Whenever the Court has issued a judgment, other than one for Attachment, ordering a party to deliver possession of real or personal property to another party and such delivery has not taken place within the time limit prescribed in the judgment, the aggrieved party may seek a writ of recovery for such property.
- B. The Writ shall describe the real or personal property involved in enough detail to enable officers of the Court to locate such property, and shall authorize a tribal law enforcement officer to take possession of specified real or personal property from a wrongful holder and deliver possession thereof to the party indicated on the Writ.
- C. On issuance of a Writ of Recovery, such a writ shall be serve don the party against whom it is issued, with a copy to the tribal law enforcement officer for enforcement.

SECTION 4.09. SERVICE OF WRITS

- A. Service of writs shall be made only by the persons listed and in the manner described in section 2.02(A)(1) of this Code.
- B. Proof of service of each writ shall be maintained as part of each case file in the form of an affidavit of service sworn to and filed with the Clerk of Court by the officer or person who served the writ.

SECTION 4.10. EXEMPT PROPERTY

- A. The following property shall be exempt from execution, attachment and garnishment:
 - 1. Trust property, except for trust property which has been properly mortgaged pursuant to 25 U.S.C. § 483a, 12 U.S.C. § 1715z-13 and 12 U.S.C. § 1715z-13a and is the subject of a foreclosure action pursuant to said mortgage.

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2. Income from trust property.
3. Of wages or a salary, \$150 per week or 80 percent of take-home wages, whichever is more.
4. Public assistance, including welfare, general assistance, and AFDC benefits.
5. Social security benefits, including SSI.
6. Unemployment benefits.
7. Disability benefits, from whatever source.
8. Workers' compensation benefits.
9. Exempt wages, social security, public assistance benefits, unemployment benefits, and disability benefits when placed in a checking, savings, or restricted account, up to \$5,000.
10. Spousal support, child support, or separate maintenance to the extent reasonably necessary for support of the individual or the support of the individual and any of his dependents.
11. A homestead (home, farm, mobile home, houseboat) if the judgment debtor or his family resides therein, to the value of \$20,000 (\$25,000 if land is included) or proceeds from its sale for one (1) year.
12. Household goods, furniture, radios, a television set and utensils to a total present value of \$1,500.
13. Automobile, truck, trailer or other vehicle to \$1,200.
14. Motorized farming equipment, including tractors, combines, harvesters, bulldozers, and attachments including disc, harrow and the like, necessary to carry on a farming operation, to the value of \$3,000 for each piece of motorized farm equipment, and \$600 for each attachment.
15. Boat and motor used in commercial fishing, to a value of \$4,500.
16. Nets used in commercial fishing to a value of \$500 per net.
17. Traditional regalia, beadwork, jewelry, blankets, drums, and the like.
18. Tools, implements, apparatus, team, harness or library necessary to carry on the individual's occupation to a value of \$750. Food for such team for 60 days.
19. Wearing apparel, jewelry and other personal items to \$900.
20. Books, pictures and musical instruments to \$300.
21. Domestic animals and poultry for family use to \$1,000 and their food for 60 days.
22. Food and fuel for the family for 60 days.
23. One rifle, one shotgun, and one pistol.
24. Public or private pensions.

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25. Veterans benefits and loans.
 26. Medical assistance benefits.
 27. Health insurance proceeds and disability proceeds of life insurance policies.
 28. Cash surrender value of life insurance policies not payable to your estate.
 29. Federal annuities.
 30. Other annuities to \$250 per month, excess over \$250 per month subject to the same exemption as wages.
 31. Professionally prescribed health aids for the individual or any of his dependents.
 32. The right to receive, or property traceable to:
 - a. An award under any crime victim reparation law.
 - b. A payment, not exceeding \$7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual monetary loss of the individual or anyone of whom the individual is a dependent.
 - c. A payment in compensation of loss of future earnings of the individual or of anyone of whom the individual was or is a dependent, to the extent reasonably necessary for the support of the individual and any of his dependents.
 33. Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption. If two or more people in the judgment debtor's household owe the claim or judgment, each of them may claim the exemptions marked by .
- B. Property secured by a filed security interest, or property being purchased pursuant to a consumer purchase agreement where no payment on the account for the specific property has been made for a period of three or more months and where the agreement specifically provides for repossession upon default, shall not be considered exempt from attachment or repossession where the creditor is the holder of the security interest or the seller in the consumer purchase agreement. Where the seller seeks repossession, such repossession may be had only if there is no breach of the peace.
- C. This section shall not prohibit the Court from adjudicating the right to possession of any trust property in actions brought pursuant to this Code or any Umatilla Tribal Housing Code or Umatilla Tribal Mortgage and Foreclosure Code to enforce rental, lease, purchase or like agreements.
- D. This section shall not prohibit the Court from adjudicating the right to possession of any trust property in actions brought pursuant to this Code or any Umatilla Tribal Housing Code or Umatilla Tribal Mortgage and Foreclosure Code to enforce rental, lease, purchase or like agreements.
- E. Where, upon review by the Court, it appears that the judgment debtor holds trust lands, income from trust lands, and other exempt property which have a net value far in excess of amounts necessary to meet the reasonable and moderate living needs of the judgment debtor and his dependents, the Court may order the judgment debtor to participate in a credit/financial management counseling program and further to comply with the agreements or plans developed as a result of participation in that program.

CHAPTER 5. ENFORCEMENT

SECTION 5.01. SOVEREIGN IMMUNITY

Nothing in this Code shall affect the right of the Confederated Tribes of the Umatilla Indian Reservation to assert immunity from suit by virtue of its status as a sovereign entity.

SECTION 5.02. CONTEMPT OF COURT

- A. Any person or persons found guilty of any of the following acts shall be adjudged to be in contempt of Court and shall be punished by arrest or fine, as appropriate, and as the Court may direct:
1. Disorderly, contemptuous or insolent behavior toward a judge or interrupting the due course of a trial or other judicial proceeding.
 2. Breach of the peace, boisterous conduct or creation of a disturbance in the presence of a judge or in the immediate vicinity of the Court which tends to interrupt the due course of a trial or other judicial proceeding.
 3. Disobedience of any order or judgment of the court, including failure to return the Certificate of Garnishee or Earnings Exemption computation Schedule, or refusal to be sworn or to answer as a witness or attend a hearing when so ordered by the Court.
 4. Deceit, or abuse of the process of proceedings of the Court, by a party to an action, suit, or special proceeding.
- B. Direct Contempt. When a contempt is committed in the immediate view and presence of the judge it may be punished summarily. To that end an order must be made reciting the facts as they occurred and adjudging that the person proceeded against is thereby guilty of the contempt and that he be punished as therein prescribed.
- C. Indirect Contempt.
1. When a contempt by an Indian is not committed in the immediate view and presence of the judge, a warrant of arrest may be issued by a judge upon the court's own motion or the motion of another based on proof sufficient enough to indicate contempt of court may have been committed. The person who is charged may be forthwith arrested and brought before the judge, at which time the accused must be given an opportunity to be heard in his defense or excuse his action or actions. The judge may thereupon convict him or dismiss the charge.
 2. Indirect contempt may otherwise be punished by civil fine of \$50 for each contempt. On the Court's own motion or the motion of another based on proof sufficient to indicate contempt may have been committed, the Court may issue an Order directing the person to appear before the Court and show cause why they should not be held in contempt and assessed a fine. The person shall be given an opportunity at the hearing to defend or excuse his action. The Court may thereafter make a finding of contempt and assess a fine, or dismiss the charge.
- D. False Swearing. A person is guilty of the act of false swearing when he knowingly makes a false sworn statement. He shall be called to account and fined or the charge dismissed in the manner provided in C(2) above.

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As Amended through Resolution 07-066 (June 25, 2007)*

SECTION 5.03. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS

- A. The Umatilla Tribal Court shall not recognize and enforce any foreign judgment unless the proponent of the foreign judgment:
1. Complies with the procedure set forth in sections 5.03 and 5.04 of this Code;
 2. Submits proof that the person against whom the foreign judgment has been rendered is subject to the jurisdiction of the Umatilla Tribal Court.
 3. Submits proof that the foreign judgment is based on valid subject matter jurisdiction;
 4. Submits proof that an attempt was made to enforce the judgment in the jurisdiction in which the foreign judgment was rendered and that such attempt was unsuccessful; or good cause why an attempt at enforcement of the foreign judgment in the jurisdiction in which the foreign judgment was rendered would be futile;
 5. Submits proof that the foreign judgment is final and that no appeal therefrom is pending; and
 6. Submits proof that the government from which the foreign judgment is issued extends comity to the orders, decrees and judgments of tribal courts.
- B. The Umatilla Tribal Court shall not recognize or enforce a foreign judgment when to do so would require the Confederated Tribes to waive its immunity from suit, except when the Confederated Tribes is served as a garnishee for the wages or property of an employee, in which case the requirements set out in section 5.03(A) and all other applicable sections of this Code shall be adhered to.
- C. The Court need not recognize a foreign judgment if:
1. The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to allow him to defend;
 2. The foreign judgment, decree or order violates the Indian Civil Rights Act of 1968, 25 U.S.C. 1301-1341;
 3. The foreign judgment was obtained by fraud;
 4. The foreign judgment would violate any federal law, any tribal law, custom or tradition, the Treaty of June 9, 1855, or the law of the foreign jurisdiction from which the judgment was obtained; or
 5. The cause of action on which the judgment is based is contrary to the general welfare of the Confederated Tribes or its members.

SECTION 5.04. PROCEDURES FOR RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS

- A. In order for a foreign judgment to be recognized and enforced, such judgment shall be filed by its proponent with the Umatilla Tribal Court within one year from the date of its issuance.
- B. Proper filing of a foreign judgment with the Court shall be accomplished when the proponent has delivered to the Court:

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1. A certified copy of the foreign judgment showing the date of its entry in the foreign court;
 2. The record of any subsequent entries affecting it, such as levies of execution and payments in partial satisfaction; and
 3. A motion requesting that the Court recognize and enforce the foreign judgment. The motion shall be accompanied by supporting affidavit containing the proofs required in section 4.10(A) of this Code. A properly filed foreign judgment shall be docketed and recorded in the Court in the same manner as other cases.
- C. Upon proper filing of a foreign judgment with the Court, the Court shall issue a summons directing the defendant to appear on a date not more than 30 days from the date of service and respond to the motion requesting the Court to recognize and enforce the foreign judgment. Such a summons shall be served on the defendant in a manner consistent with this Code.
- D. Where the proponent of the foreign judgment seeks enforcement of same through garnishment or attachment, sections 4.04 – 4.06 and 4.10 of this Code shall also apply.
- E. Failure to appear as directed by the summons or failure to respond to the motion requesting the Court to recognize and enforce the foreign judgment once personal jurisdiction over the defendant has been obtained shall not prevent the Court from ruling on the motion.
- F. After reviewing all the relevant evidence concerning the foreign judgment the Court shall issue an Order granting or denying the motion to recognize and enforce the foreign judgment. Such an Order shall be a final judgment of the Court in favor of either the plaintiff or defendant to the foreign judgment and shall be enforceable as such.

SECTION 5.05. ENFORCEMENT OF TRIBAL COURT JUDGMENTS IN STATE COURTS

Whenever a judgment of the Umatilla Tribal Court is not enforceable within the jurisdiction of the court, and a department or program within the Confederated Tribes is a party to the judgment, the Court may direct the Tribal Attorney to seek recognition and enforcement of its judgment as a foreign judgment in the appropriate jurisdiction.

SECTION 5.06. UNLAWFUL INTERFERENCE

No person holding office in tribal government or employed by the Confederated Tribes or the other governmental entities on the Umatilla Indian Reservation shall use or attempt to use his position to influence, avoid, or encourage avoidance of, any decision of the Umatilla Tribal Court.

APPENDIX A

CLAIM OF EXEMPTION

**STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution 07-066 (June 25, 2007)**

NOTICE OF RIGHT TO FILE CLAIM OF EXEMPTION

Property or money belonging or owing to you may be or may already have been taken in order to satisfy a judgment which has been entered against you, and which the holder of the judgment claims you have paid. The creditor has asked the court to issue a writ of attachment/garnishment against your property or money.

YOU MAY BE ABLE TO PREVENT THE TAKING OF THIS MONEY, OR PREVENT THE SALE OF THIS PROPERTY, SO READ THIS NOTICE CAREFULLY.

Tribal, state and federal law say certain property may not be taken by attachment or garnishment in order to satisfy a judgment debt. Attached is a list of exempt property which may not be taken. Use this list to complete the enclosed Claim of Exemption form. If the property or money taken is exempt, it will be returned to you.

IN ORDER TO PREVENT THE GARNISHMENT OF YOUR WAGES OR GET THE PROPERTY RETURNED TO YOU, YOU MUST RETURN THIS FORM TO THE COURT NO LATER THAN FIVE DAYS FROM THE DAY YOU RECEIVE IT.

1. Fill out the enclosed Claim of Exemption form.
2. Mail or deliver the form to the Umatilla Tribal court. You should be prepared to explain the exemptions you claim in court. A hearing will be held on the Claim of Exemption and on your creditor's request for a Writ of Garnishment/Writ of Attachment. The hearing will be held 3 days after you return the Claim of Exemption to the court.

I/We claim the following described property or money as exempt from attachment or garnishment:

I/We believe this property is exempt because:

Name: _____
Signature: _____
Address _____

Phone: _____
(Required)

Name: _____
Signature: _____
Address: _____

Phone: _____
(Required)

APPENDIX B

NOTICE OF GARNISHMENT

STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
As Amended through Resolution 07-066 (June 25, 2007)

IN THE UMATILLA TRIBAL COURT
FOR THE UMATILLA INDIAN RESERVATION
MISSION, OREGON

_____))
Plaintiff)
vs.)
_____))
Defendant)

NOTICE OF GARNISHMENT
U.T.C. No.

IN THE NAME OF THE UMATILLA TRIBE, TO _____, GARNISHEE:

The above-named plaintiff, _____, hereinafter called Creditor, whose address is and whose telephone number is _____, has obtained a judgment against the above-named defendant, _____, hereinafter called Debtor, whose last-known address is _____, on the ____ day of _____, 19___. The debtor's social security number or employer identification number is _____ (insert if known). The following amount is necessary to satisfy the Creditor's judgment:

+ Judgment Debt \$
+ Interest \$
+ Attorney Fees \$
+ Court Costs \$
+ Accruing Costs \$
+ Service Fees for this Writ \$
= Subtotal \$
- Payments made \$
= Total Amount Required to Satisfy
in Full this Judgment \$

You are required to answer this Notice by filling in the attached "Certificate of Garnishee" (and, if you are the Debtor's employer, the Earnings Exemption Computation Schedule) and mail or deliver the original of such Certificate to: Clerk of Court, CTUIR, BOX , Pendleton, OR 97801

If you receive no Writ from the Court within 30 days after the date on which you return this Certificate to the Court, you may thereafter treat this garnishment as being of no further force or effect.

YOU MUST FILE A CERTIFICATE WHETHER OR NOT YOU HOLD ANY OF THE DEBTOR'S PROPERTY OR OWE ANYTHING TO THE DEBTOR. IF YOU FAIL TO ANSWER AND RETURN THIS CERTIFICATE, OR IF YOU ANSWER IT UNTRUTHFULLY, OR IF YOU FAIL TO DELIVER THE PROPERTY WHEN REQUIRED BY THE COURT TO DO SO, YOU MAY BE HELD IN CONTEMPT OF COURT

Witness the hand and seal of this court on this ____ day of _____, 19__.

Clerk of Court

APPENDIX C

CERTIFICATE OF GARNISHEE

CERTIFICATE OF GARNISHEE

Umatilla Indian Reservation)
) ss.
County of Umatilla)

TO: Clerk of Tribal Court

I hereby certify that at the time of delivery to me of the foregoing Notice of Garnishment on the ___ day of _____, 19__, I had no property, money, debts, rights, dues or credits due or to become due belonging or owing to the Debtor(s) named in said Notice of Garnishment in my possession, custody or control except the following:

Dated _____, 19__.

Printed Name of Garnishee

Signature of Garnishee

APPENDIX D

EARNINGS EXEMPTION COMPUTATION SCHEDULE

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As Amended through Resolution 07-066 (June 25, 2007)*

**EARNINGS EXEMPTION
COMPUATION SCHEDULE**

1.	Debtor's gross weekly earnings	\$
2.	Total of amount required to be withheld by law: (Federal and State withholding, Social Security, SAIF)	\$
3.	Debtor's "disposable earnings" (net) for week (Subtract line 2 from line 1)	\$
4.	Minimum Exemption (40 x the present minimum hourly wage) per week	\$
5.	Maximum Exemption - enter 80% of line 3	\$
6.	Earnings exempt from garnishment - enter amount from line 4 or line 5, whichever is greater	\$
7.	Nonexempt earnings - subtract line 6 from line 3	\$
8.	Amounts presently being withheld pursuant to a foreign judgment recognized by the Tribal court or, where applicable, ORS 25.050 or 25.350	\$
9.	Earnings subject to garnishment - subtract line 8 from line 7	\$ _____

APPENDIX E

LEGISLATIVE HISTORY

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION
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FINANCIAL RESPONSIBILITY CODE

LEGISLATIVE HISTORY

The Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation enacted the Financial Responsibility Code in Resolution 82-9 (November 18, 1981).

The Board enacted a revised Financial Responsibility Code in Resolution 87-76 (September 2, 1987). The revised Financial Responsibility Code was amended four times, in Resolution No. 94-95 (December 21, 1994), Resolution No. 97-28 (July 2, 1997), Resolution 99-63 (July 28, 1999) and Resolution No. 07-066 (June 25, 2007). Upon the enactment of Resolution No. 07-066 (June 25, 2007), the code was reformatted to match the uniform format adopted for tribal codes.