

CHAPTER 59

STOCKBRIDGE-MUNSEE TRIBAL LAW COMMERCIAL-SECURITY INTERESTS

Section 59.1 Adoption of Articles 1 and 9 of the Uniform Commercial Code

(A) Notwithstanding any provision of Tribal law except as otherwise provided in this Ordinance, the provisions of Articles 1, 9 and the applicable provisions of Article 8 referenced by Article 9 of the Uniform Commercial Code as enacted in the Consolidated Laws of the State of New York, and as the same may be amended from time to time by the State of New York (the “New York UCC”), shall be deemed adopted and incorporated by reference as if set forth in full herein as Stockbridge-Munsee Tribal law. Such law shall be applicable to all security interests and collateral subject to the jurisdiction of the Stockbridge-Munsee Community, including any security interest granted by the Stockbridge-Munsee Community, any arm of the Tribal government, and any Tribally owned businesses or enterprises that are located within the State of New York or the State of Wisconsin, to the same extent provided in Section 9-109 of the New York UCC, except that provisions of Sections 9-109(c)(2) and (c)(3) of the New York UCC shall be ineffective to limit the application of the New York UCC to a Tribal Party.

(1) For purposes of this Ordinance, a “Tribal Party” means the Tribe or any division, subdivision, branch, department, board, committee, commission, agency, enterprise or instrumentality of the Tribe, and any corporation, limited liability company or other entity wholly owned or wholly controlled by the Tribe, either directly or through one or more entities, along with the successors and assigns of each.

(B) With respect to any security interest to which this Ordinance applies, except as provided elsewhere in this Ordinance, the rights and obligations of any person shall be governed by the New York UCC, including those rights and obligations related to enforcement of a security interest or arising after a default, including all filing requirements.

(C) Except as provided elsewhere in this Ordinance, the perfection, effect of perfection or nonperfection, and priority of any security interest to which this Ordinance applies shall be determined in accordance with the New York UCC as if each debtor were (for purposes of Sections 9-301 through 9-307 of the New York UCC) located in the State of New York and as if the lands of the Tribe were subject to the laws of the State of New York.

(D) Notwithstanding any provision of the New York UCC to the contrary, a security interest granted by a Tribal Party in Pledged Revenues shall be created and attach upon the giving of value and the granting of such security interest in a writing executed by that Tribal Party.

(1) Such security interest may be perfected only by the filing of a financing statement in the same manner and in the same location as if all of such Pledged Revenues were accounts.

(2) For purposes of this Ordinance, “Pledged Revenues” means the money, earnings, income, and revenues (and any proceeds thereof), as well as the Tribal Party’s rights to, and interest with respect to, receiving the foregoing before actual possession, whether in the form of money, deposit accounts, investments, accounts, instruments or other assets, and the proceeds thereof, that a Tribal Party has granted a security interest to a secured party in a

writing signed by the Tribal Party, but only to the extent as pledged in that written document.

(E) No security interest shall be granted or permitted in the following assets or property of the Tribe:

- (1) assets or property of the Tribe held in trust for the Tribe by the U.S. government;
- (2) any account or fund that holds per capita payment funds for the benefit of minor or disabled tribal members as provided for under the Revenue Allocation Plan;
- (3) any properly established and held account or fund that holds funds in trust for beneficiaries; and
- (4) any funds, assets or property held in a protected or restricted status, including federal or state government funding that must be used for a specified use.

Section 59.2 Applicability to Prior Transactions

The provisions of the Ordinance shall be applicable to all security interests subject to the jurisdiction of the Tribe prior to enactment of this Ordinance, unless such application would be inconsistent with rights vested in any party other than the Tribe by operation of the provisions of any existing contract between the Tribe and such party.

Section 59.3 Severability.

If any section, or any part thereof, of this Ordinance shall be held invalid for any reason whatsoever by a court of competent jurisdiction, the remainder of the section, or part of this Ordinance shall not be affected thereby and shall remain in full force and effect as though no section, or part thereof, has been declared to be invalid.

Section 59.4 No Waiver of Sovereign Immunity.

Nothing in this Ordinance shall provide or be interpreted to provide a waiver of the Stockbridge-Munsee Community or any of its governmental officers' and/or agents' sovereign immunity from suit.

Section 59.5 Future Amendments

This Ordinance, and any section, part, and word thereof, may be amended by Tribal Council in accordance with the provisions of the Stockbridge-Munsee Tribal Constitution, and without Bureau of Indian Affairs approval.

LEGISLATIVE HISTORY

1. Adopted by Tribal Council March 16, 2005, Resolution No. 013-05. Approved by Bureau of Indian Affairs on April 1, 2005.
2. On June 29, 2009, Tribal Council adopted Resolution No. 068-09 to amend Sections 59.1 and 59.2; create new Sections 59.1(A)(1), 59.1(B), 59.1(C), 59.1(D), and 59.1(E); and renumber Section 59.1 as 59.1(A), Section 27.4 as 59.4, and Section 27.5 as 59.5.