

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214
<http://oneida-nsn.gov/LOC>



Committee Members

Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
Fawn Billie, Councilmember
David P. Jordan, Councilmember
Jennifer Webster, Councilmember

LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room-2nd Floor Norbert Hill Center

January 20, 2016 9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be approved

1. January 6, 2016 LOC Meeting Minutes

III. Current Business

1. Audit Committee Bylaw Amendments
2. Marriage Law Amendments
3. Vendor Licensing Law Amendments
4. Real Property Law Amendments
5. Garnishment Ordinance Updates
6. Children's Code

IV. New Submissions

V. Additions

VI. Administrative Updates

1. Kalihwisaks Article
2. Letter to Personnel Commission Chair

VII. Executive Session

VIII. Recess/Adjourn

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LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Business Committee Conference Room-2nd Floor Norbert Hill Center
January 6, 2016 9:00 a.m.

PRESENT: Brandon Stevens, Jennifer Webster, Fawn Billie, Tehassi Hill, David P. Jordan

OTHERS PRESENT: Taniquelle Thurner, Krystal John, Douglass McIntyre, Maureen Perkins, Rae Skenandore, Bradley Graham, Bill Graham, RC Metoxen, Mike Debraska, Nancy Barton, Cathy L. Metoxen, Paula Ripple, Norbert Hill and Bonnie Pigman.

I. Call To Order and Approval of the Agenda

Brandon Stevens called the January 6, 2016 Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Tehassi Hill to approve the agenda; seconded by Fawn Billie. Motion carried unanimously.

II. Minutes to be approved

1. December 16, 2015 LOC Meeting Minutes

Motion by Jennifer Webster to approve the December 16, 2015 LOC meeting minutes; seconded by Fawn Billie. Motion carried unanimously.

III. Current Business

1. **Petition: Food Pantry** (03:10-03:58)

Motion by Jennifer Webster to forward the Petition: Food Pantry Statement of Effect to the Oneida Business Committee; seconded by David P. Jordan. Motion carried unanimously.

2. **Audit Committee Bylaws Amendments** (03:59-05:22)

Motion by Fawn Billie to accept the Audit Committee Bylaws Amendments legislative analysis and to forward the bylaws to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

3. **Oneida Flag Policy** (05:23-06:23)

Motion by David P. Jordan to accept the updated legislative analysis for the Oneida Flag Policy; seconded by Jennifer Webster. Motion carried unanimously.

4. **Marriage Law Amendments** (06:24-07:33)

Motion by Fawn Billie to accept the legislative analysis for the Marriage Law amendments,

defer the amendments to the Finance Department for a fiscal impact statement and direct the Legislative Reference Office to prepare the amendments for a public meeting to be held on February 18, 2016; seconded by Jennifer Webster. Motion carried unanimously.

5. **Cemetery Law Amendments (07:34-13:52)**

Motion by Jennifer Webster to defer the draft Cemetery Law Amendments to the Legislative Reference Office for legislative analysis and to the Finance Department for a fiscal impact statement; seconded by David P. Jordan. Motion carried unanimously.

6. **Oneida Higher Education Scholarship (13:53-52:51)**

Motion by Fawn Billie to defer the Oneida Higher Education Scholarship to the next Legislative Operating Committee meeting to allow for an updated fiscal impact statement and for the Higher Education Student Handbook to be approved by the Director of Government Services; seconded by David Jordan. Motion carried unanimously.

Amendment to the main motion by David P. Jordan to require the Chief Counsel to prepare a written legal opinion considering whether the Law conflicts with the General Tribal Council resolutions related to the Higher Education Scholarship; seconded by Jennifer Webster. Motion carried unanimously.

7. **Public Use of Tribal Land Amendments (52:52-53:50)**

Motion by David P. Jordan to forward to the Public Use of Tribal Land Amendments adoption packet to the Oneida Business Committee for consideration; seconded by Tehassi Hill. Motion carried unanimously.

8. **Land Commission Bylaws Amendments (53:51-54:11)**

Motion by David P. Jordan to defer the Land Commission Bylaws Amendments to the Legislative Reference Office for a legislative analysis; seconded by Tehassi Hill. Motion carried unanimously.

IV. New Submissions

1. **Trust/Enrollment Committee Bylaw Amendments (54:12-01:05:49)**

Motion by Jennifer Webster to add the Trust/Enrollment Committee Bylaw Amendments to the Active Files List; seconded by Fawn Billie. Motion carried unanimously.

Note: Jennifer Webster will be the sponsor of this item.

2. **Eviction Law (01:05:50-01:06:18)**

Motion by Fawn Billie to add the Eviction Law to the Active Files List with Brandon Stevens as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

V. Additions

VI. Administrative Updates

1. **Oneida Code Reorganization (1:06:18-1:09:29)**

Motion by Tehassi Hill to forward the Oneida Code Reorganization adoption packet, which includes the memorandum, the resolution and the statement of effect, to the Oneida Business Committee for consideration; seconded by Fawn Billie. Motion carried unanimously.

VII. Executive Session

VIII. Recess/Adjourn

Motion by Tehassi Hill to adjourn the January 6, 2016 Legislative Operating Committee meeting at 10:10 a.m.; seconded by Jennifer Webster. Motion carried unanimously.



Legislative Operating Committee

January 20, 2016

Audit Committee Bylaws Amendments

Submission Date: September 17, 2014

<input type="checkbox"/> Public Meeting:	N/A
<input type="checkbox"/> Emergency Enacted:	

LOC Sponsor: Fawn Billie

Summary: *This item was deferred to the LOC by the OBC on April 27, 2011 and it was carried over into the current term by the LOC. Originally, the OBC deferred the Audit Committee Charter to the LOC for review of authority and review under the context as bylaws. The Audit Committee is a standing committee of the OBC currently operating under a charter adopted by the Audit Committee. The previous LOC deferred a draft of the Bylaws to the Audit Committee for review and was awaiting a response from the Audit Committee when the term ended. The Audit Committee's last action on this item occurred on May 3, 2013 and was to "defer until after the GTC Meeting regarding enforcement authority," which refers to amendments to the Audit Law that were anticipated would be sent to GTC for review.*

9/17/14 LOC: Motion by Fawn Billie to add the Audit Committee Bylaws Amendments to the Active Files List with Fawn Billie as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

6/3/15 LOC: Motion by Jennifer Webster to forward the draft to the Audit Committee; seconded by David P. Jordan. Motion carried unanimously.

6/11/15: Audit Committee Meeting: Bylaws included on agenda.

8/13/15: Audit Committee Meeting: Bylaws draft approved at meeting.

11/12/15: Audit Committee Meeting: Bylaws draft approved at meeting.

12/2/15 LOC: Motion by Jennifer Webster to forward the Audit Committee Bylaws Amendments to the Legislative Reference Office for a legislative analysis; seconded by Fawn Billie. Motion carried unanimously.

1/6/16 LOC: Motion by Fawn Billie to accept the Audit Committee Bylaws Amendments legislative analysis and to forward the bylaws to the Oneida Business Committee for consideration; seconded by David P. Jordan. Motion carried unanimously.

1/13/16 OBC: Motion by Fawn Billie to defer the approval of the Audit Committee Bylaws until ready to be brought back, seconded by Lisa Summers. Motion carried unanimously.

1/14/16: Audit Committee Meeting: Bylaws draft approved at meeting.

Next Steps:

- Accept the updated draft and legislative analysis and consider forwarding to the Oneida Business Committee for consideration.


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Committee Members
Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
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David P. Jordan, Councilmember
Jennifer Webster, Councilmember

Memorandum

TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson 
DATE: January 27, 2016
RE: Audit Committee Bylaw Amendments

Please find attached the following for your consideration:

1. Audit Committee Charter
2. Audit Committee Bylaw Legislative Analysis
3. Audit Committee Bylaw (clean)

Overview

On September 17, 2014, the Legislative Operating Committee (LOC) approved a request from the Audit Committee (Committee) to draft Bylaws to replace the charter the Committee was operating under. The Committee approved the attached Bylaws on January 14, 2016. These Bylaws will put the Committee in compliance with the Comprehensive Policy Governing Boards, Committees and Commissions. Key differences from the charter include:

- Providing specific duties for the officers;
- Providing for emergency and special meetings;
- Expanding the reporting requirements;
- Establishing standards for meetings include a regulate order of business, voting threshold requirements, among others; and
- Clarifying the responsibilities of the Committee.

The LOC approved forwarding the attached Bylaws to the Oneida Business Committee on January 20, 2016.

Requested Action

Approve the Audit Committee Bylaws.

AUDIT COMMITTEE CHARTER

PURPOSE

The purpose of the Audit Committee is to ensure the integrity of the financial reporting and audit systems of The Oneida Tribe: assist in the maintenance of adequate financial reporting, information technology and audit systems; supervise the recruitment and recommendation to retain a public accounting firm for special and annual audits; and to fulfill its oversight responsibilities for the financial reporting process, the system of internal control, the audit process and the Tribe's process for monitoring compliance with laws and regulations and the code of conduct.

To report to the Oneida Business Committee and to the General Tribal Council, when appropriate, relative to audits, financial reports, management reports and recommended corrective measures.

AUTHORITY

Source - The Audit Committee has been delegated the authority from the Oneida Business Committee, through the Audit Law, to ensure the integrity of the Tribe's financial reporting and audit systems.

- The Audit Committee shall be responsible for evaluating and recommending to the Oneida Business Committee, an independent public accounting firm for the annual or any special audit, unless there is a prior alternative written agreement in place delegating the responsibility for a given special audit.

Oversight - The Audit Committee shall have the responsibility of oversight over the Tribal audit processes and the process of investigation into alleged or suspected improprieties and violations of fiscal and ethics policies, codes, regulation, and directives.

- The Audit Committee shall conduct oversight over the activities of the internal audit function in independent assignments related to auditing, evaluating, and special investigations related to detecting fraudulent financial reporting and conducting investigations into fraud and theft in the Tribe's businesses, enterprises and programs.

Enforcement - The Audit Committee will have the ability to utilize all existing enforcement authorities to carry out their responsibilities to achieve their purpose.

- Compel Executive Management and Chairpersons of Boards, Committees and Commissions to attend meetings representing issues as needed.
- Compel Management, Boards, Committees and Commissions to comply with audit requests and reply to audit reports.
- The Audit Committee shall instruct the independent external auditor and the internal auditor that the Committee expects to be advised if there are any areas that require its special attention.

- Issue notices of noncompliance, as appropriate, to Executive Management in accordance with the Employee Manual Negligence provision.
- Issue notices of violation of Oath of Office, as appropriate to Board, Committee and Commission members.
- Seek legislative improvements to assure the Tribe's code of ethics, code of conduct and conflict of interest are current and adequate to ensure fairness for all and equity by protecting the resources.

COMPOSITION

Audit Committee - The Audit Committee will consist of at least five (5) members who are age 21 and above and are enrolled members of the Oneida Nation of Wisconsin. Four members will consist of Business Committee members and one committee member will be a community member. The Chair and Vice-Chair will be determined by nomination at the first meeting after appointment. Each committee member will be both independent and financially literate or have access to financial expertise, whether in the form of a single individual serving on the committee, or collectively among committee members.

Defining independence of each Audit Committee member is important for the Tribe including:

- Not employed by any Tribal entity
- Does not provide contract services to the Tribe
- Not a member of any other Tribal Board, Committee or Commission
- Represents only the interests of the Tribe at large while in session

The Audit Committee shall strictly adhere to the Oneida Tribe's Code of Ethics, Rules of Conduct and Conflict of Interest Policies.

At least one member shall be designated as the "financial expert," as defined by employment experience in finance and accounting, certification or other comparable background and experience. Components of financial expertise include:

- The ability to assess the general application of the principles and standards in connection with the accounting for estimates, accruals, and reserves.
- An understanding of internal controls.
- An understanding of the procedures for financial reporting.
- An understanding of audit committee functions and responsibilities.

MEETINGS

The Audit Committee shall require appropriate administration, through the chain of authority, to appear at Audit Committee meetings. All committee members are expected to attend each meeting.

The Audit Committee shall meet on a monthly basis and special meetings may be called as circumstances require. The Committee shall meet privately with the internal auditor, independent auditor, legal counsel and management as required.

The committee will invite members of management, auditors or others to attend meetings and provide pertinent information, as necessary in open session. It will hold private meetings and executives sessions with auditors.

RESPONSIBILITIES

Financial Statements

Review and discuss annual and quarterly statements and Managements Discussion & Analysis (MD&A) with management and auditors.

Internal Control

The audit committee's role is to ensure that management has developed and follows an adequate system of internal control, including:

- Monitoring compliance with legal and regulatory requirements
- Risk assessment and risk management.
- Adopt a code of ethics for senior financial officers which includes monitoring and enforcement.
- Establish procedures for the receipt, retention, and treatment of complaints; establish a confidential anonymous submission by employees for concerns regarding questionable matters.
- Ensure open communication and information flow with management, internal auditors and external auditors.

Internal Audit

The Internal Audit Department shall be responsible to the Audit Committee. The Internal Audit Department shall have delegated authority from the Audit Committee and shall have the greatest ability to obtain information reasonably related to an audit.

- Perform all work in accordance with the International Professional Practices Framework.
- All information collected or derived from an audit, upon closure, shall be retained for seven years in a secure location in accordance with the Records Management Law.
- The Internal Audit Department shall make reports available to the Audit Committee, Oneida Business Committee and Administration on a need to know basis.
- Reports accepted by the Business Committee shall be made available for review by Tribal Members who make a request.

External Audit

The Audit Committee shall:

- Ensure auditor qualifications.
- Oversee performance of external auditor.
- Assure all reports go directly to the Audit Committee

Compliance

Review the effectiveness of the system for monitoring compliance with laws and regulations and the results of management's investigation and follow-up of any instances of non-compliance.

Special Audits may be recommended by the Audit Committee from time to time, but such audits shall be requested in writing to the Business Committee.

Reporting Responsibilities

The Audit Committee shall report, as deemed appropriate, to the Oneida Business Committee.

- Approved Audit Committee minutes, appropriate supporting information and audit reports shall be presented to the Business Committee for consideration and acceptance.
- There shall be an open avenue of communication between internal audit, the external auditors and the Business Committee.

Other Responsibilities

The Audit Committee should complete a self-evaluation annually to identify improvement opportunities. This involves comparing the committee's performance to its charter, any formal guidelines and rules and against best practices. Such a review is confidential and may or may not include evaluations of particular members.



Audit Committee Bylaws Analysis Draft

<i>Analysis by the Legislative Reference Office</i>					
Entity	Audit Committee (Committee)				
Requestor	Internal Audit	Drafter	Douglass McIntyre	Analyst	Candice E. Skenandore / Maureen Perkins
Reason for Request	On April 27, 2011, the OBC referred the Audit Committee Charter to the LOC for review of authority and review under the context as bylaws				
Members	5 members total, 4 OBC, 1 other	Stipends	\$50 a month	Elected/ Appointed	Elected & appointed
Authority	Audit Law delegates authority to the Committee to ensure the integrity of the Tribe's financial reports and audit systems by overseeing the Tribal audit processes and the process of investigation into any alleged or suspected improprieties and violations of fiscal and ethical policies, codes, regulations and directives. In addition, the Audit Law provides the Committee with the ability to utilize all existing enforcement authorities to carry out its responsibilities <i>[See Audit Law 8.5-1 through 8.5-3]</i> .				
Hearing Authority	Neither the bylaws nor the Audit Law provide the Committee with hearing authority.				

Overview

The Committee is a standing committee of the Oneida Business Committee (OBC) which has been operating pursuant to the Oneida Internal Audit Committee Charter that was approved by the Committee on February 24, 2011. The Committee is composed of four OBC members and one community member who is appointed. The proposed Bylaws mirror the current charter with the exception of the following:

- Language has been added and formatting changes have been made to the Bylaws which are consistent with the requirements set out in the Comprehensive Policy Governing Boards, Committees and Commissions.
- The Charter requires at least one Committee member to be designated as the “financial expert” while these Bylaws require Committee members to have access to financial expertise be it the Chief Financial Officer, a Committee member or collectively amongst the Committee members *[See 1-4 (d) (2)]*.
- The Chairperson and Vice Chairperson are nominated at the first meeting after the appointment; however, language has been added that requires the Chairperson and Vice Chairperson be OBC representatives *[See 2-4]*. The appointed community member cannot hold an officer position.
- The Committee must recruit and hire a qualified Internal Audit Director or Manager *[See 2-5]*.
- The Charter provides the Committee with enforcement authority to carry out its responsibilities which includes compelling the appropriate entities to attend meetings and comply with audit requests as well as issuing notices of non-compliance and oath violations. The proposed Bylaws will require the Committee to request the OBC to perform these duties *[See 6-2 (a, b, d & e)]*.

AUDIT COMMITTEE BYLAWS

Article I. Authority

- 1-1. *Name.* The name of this committee shall be the Audit Committee, hereinafter referred to as “Committee.”
- 1-2. *Authority.* By the authority of the Oneida Business Committee, the Committee was created by adoption of the Audit Law Resolution BC-07-15-98-C. Through the Audit Law, the Committee has been delegated the authority to ensure the integrity of the Tribe’s financial reporting and audit systems. Definitions for the words used throughout these bylaws shall be taken from the Audit Law. All words not defined in the Audit Law shall be used in their ordinary and everyday sense.
- 1-3. *Office.* The office of the Committee shall be located within the exterior boundaries of the Oneida Reservation and its mailing address shall be P.O. Box 365, Oneida, WI 54155.
- 1-4. *Membership.*
 - a. Number of members. The Committee shall consist of five (5) members.
 - b. How elected or appointed.
 1. Four (4) Committee members shall be Oneida Business Committee members, excluding the Treasurer, selected by a majority of the Oneida Business Committee.
 - A. Any member of the Business Committee, with the exception of the Treasurer, may serve as Ad Hoc when needed.
 2. One (1) Committee member shall be a member of the community who meets the qualifications of 1-4(d). This member shall be appointed in accordance with the Comprehensive Policy Governing Boards, Committees and Commissions.
 - c. How vacancies are filled. Vacancies on the Committee shall be filled in accordance with section 1-4(b) for the remainder of the outstanding term.
 - d. Qualifications of members.
 1. The appointed Committee member shall be at least twenty-one (21) years of age and be an enrolled member of the Oneida Tribe of Indians of Wisconsin.
 2. Committee members shall be both independent and financially literate or have access to financial expertise, whether in the form of the Chief Financial Officer, a single individual serving on the Committee, or collectively among Committee members. Components of financial expertise include:
 - A. The ability to assess the general application of the principles and standards in connection with the accounting for estimates, accruals, and reserves.
 - B. An understanding of internal controls.
 - C. An understanding of the procedures for financial reporting.
 - D. An understanding of Audit Committee functions and responsibilities.
 - e. Term of office.
 1. The terms of the Audit Committee members shall coincide with the term of the Oneida Business Committee.
 2. The term of the appointed community member shall expire midway through the term of the Oneida Business Committee.
 3. Defining independence of each Committee member is important for the Tribe and no Committee member may:
 - A. Be employed by any Tribal entity.
 - B. Provide contract services to the Tribe.
 - C. Be a member of any other Tribal Board, Committee or Commission, other than the Oneida Business Committee.

- 49 D. Represent any interests other than the Tribe's while acting as a member of
50 the Committee.
51 4. Committee members shall strictly adhere to the Tribe's laws and policies
52 establishing ethical standards and/or conflicts of interest, and any code of conduct.
53 All work shall be performed in accordance with the International Professional
54 Practices Framework. Failure to do so may result in the removal from the
55 Committee or termination of an appointment.
56

57 **Article II. Officers**

- 58 2-1. The Committee shall have two (2) officers: Chairperson and Vice-Chairperson. The
59 terms of office for the officers shall coincide with the terms of the Oneida Business
60 Committee members.
61 2-2. *Chairperson Duties.* The Chairperson shall preside over all meetings and may not vote
62 except in the case of a tie. The Chairperson shall be responsible for calling meetings and
63 notifying members with the assistance of the Internal Audit Department.
64 2-3. *Vice-Chairperson Duties.* The Vice-Chairperson shall assist the Chairperson with his or
65 her duties, at the request of the Chairperson, and shall preside over all meetings in the
66 Chairperson's absence.
67 2-4. *How Officers are Chosen.* The Chairperson and Vice-Chairperson shall be chosen from
68 the Oneida Business Committee representatives by all Committee members present at the
69 first meeting held after the Committee is appointed.
70 2-5. *Personnel.* The Committee shall recruit and hire a qualified Internal Audit Director or
71 Manager to lead the internal audit function and to assure unbiased audit and investigative
72 processes and reporting.
73

74 **Article III. Meetings**

- 75 3-1. All meetings of the Audit Committee are to be closed session as required by the
76 International Professional Practices Framework with the exceptions below.
77 3-2. The Committee shall meet on a monthly basis within the Reservation boundaries.
78 a. All Committee members are expected to attend each meeting.
79 b. The Committee may invite entity representatives, auditors or others to attend meetings
80 and provide pertinent information.
81 c. The Committee may hold meetings in executive session with auditors, legal counsel,
82 and entity representatives as invited.
83 3-3. *Emergency and Special Meetings.* Emergency or special meetings of the Committee may
84 be called by the Chairperson or upon written request of any two (2) members. The
85 Chairperson shall designate a time and place for holding an emergency or special meeting.
86 3-4. *Notice of Emergency or Special Meeting.* Notice of an emergency or special meeting shall
87 be:
88 a. *Members.* The Committee shall provide notice to members at least forty-eight (48) hours
89 prior to the date set for any such meeting. Notice may be communicated in person, or
90 through electronic communication.
91 b. *Public.* The Committee shall provide public notice of special meetings by submitting
92 the date, time and location of the special meeting to the Intergovernmental Affairs and
93 Communications Department to be included on the community calendar on the Tribe's
94 website no later than twenty-four (24) hours prior to the time of the special meeting.
95 3-5. *Quorum.* A quorum shall consist of a majority of current members of the Committee and
96 shall include the Chairperson or Vice-Chairperson.

- 97 3-6. *Order of Business.* The regular meetings of the Committee shall follow the order of
98 business as set out herein:
99 a. Call to Order.
100 b. Approval of Agenda
101 c. Approval of Minutes
102 d. Old Business
103 e. New Business
104 f. Executive Session
105 g. Adjourn
106 3-7. *Voting.* Decisions of the Committee shall be based on a majority of a quorum of members
107 present at a meeting. The officer presiding at a meeting shall vote only in case of a tie.
108 3-8. *Stipends.* The appointed Committee member shall be paid a meeting stipend in accordance
109 with Section 11-3 of the Comprehensive Policy Governing Boards, Committees and
110 Commissions, provided that the meeting has established a quorum for a minimum of one
111 (1) hour and the Committee member collecting the stipend was present for at least one (1)
112 hour of the established quorum.
113

114 **Article IV. Reporting**

- 115 4-1. Agenda items shall be in an identified format.
116 4-2. Minutes shall be typed and in a consistent format designed to generate the most informative
117 record of the meetings of the Committee.
118 4-3. Handouts, reports, memoranda and the like may be attached to the minutes and agenda, or
119 may be kept separately, provided that all materials can be identified to the meeting in
120 which they were presented.
121 4-4. The Committee shall report to the Oneida Business Committee and to the General Tribal
122 Council, when appropriate, relative to audits, financial reports, management reports and
123 recommended corrective measures.
124 4-5. The Committee shall report to the Oneida Business Committee, as often as deemed
125 appropriate, the approved Committee minutes, audit reports and appropriate supporting
126 information.
127 a. Minutes and audit reports require Oneida Business Committee acceptance in order to
128 finalize the audit records.
129

130 **Article V. Amendments**

- 131 5-1. The Bylaws of the Committee shall be amended with the approval of a quorum of the
132 Committee and upon subsequent approval by the Oneida Business Committee.
133

134 **Article VI. Responsibilities**

- 135 6-1. The Committee shall have oversight of the activities of the internal audit function in
136 independent assignments related to auditing, evaluating, and special investigations related
137 to detecting fraudulent financial reporting and conducting investigations into fraud and
138 theft in the Tribe's entities. The Committee shall perform all work in accordance with the
139 International Professional Practices Framework.
140 6-2. *Enforcement.* The Committee shall have the ability to utilize all existing enforcement
141 authorities to carry out their responsibilities to achieve their purpose, including:
142 a. Request the Business Committee to compel entity representatives to attend meetings in
143 order to represent issues.

- 144 b. Request the Business Committee to compel entity representatives to comply with audit
145 requests and reply to audit reports.
- 146 c. Instruct the external auditor and the internal auditor that the Committee expects to be
147 advised if there are any areas that require its special attention.
- 148 d. Request the Business Committee to issue notices of noncompliance to entity employees
149 in accordance with the disciplinary provisions relating to work performance and
150 personal actions, as provided for in the Tribe's Personnel Policies and Procedures.
- 151 e. Request the Business Committee to issue notices of violation of Oath of Office, as
152 appropriate, to entity members.
- 153 f. Seek improvements to assure the Tribe's laws and policies establishing ethical
154 standards and/or conflicts of interest, as well as any code of conduct implemented are
155 current and adequate to ensure fairness for all and equity by protecting the resources.
- 156 6-3. *Financial Statements*. The Committee shall review and discuss annual statements and
157 Managements Discussion & Analysis (MD&A) with auditors.
- 158 6-4. *Internal Control*. The Committee shall ensure that entities have developed and follow an
159 adequate system of internal control, including:
- 160 a. Compliance with legal and regulatory requirements.
- 161 b. Risk assessment and risk management.
- 162 c. Adopt a code of ethics which includes monitoring and enforcement.
- 163 d. Establish procedures for the receipt, retention, and treatment of complaints; establish a
164 confidential anonymous submission by individuals for concerns regarding questionable
165 matters.
- 166 e. Ensure open communication and information flow with entities, internal auditors and
167 external auditors.
- 168 6-5. *External Audit*. The Committee shall be responsible for evaluating and recommending to
169 the Oneida Business Committee, an independent public accounting firm for the annual or
170 any special audit, unless there is a prior alternative written agreement in place delegating
171 the responsibility for a given special audit. When an external auditor is hired, the
172 Committee shall:
- 173 a. Verify the qualifications of the external auditor.
- 174 b. Oversee the performance of the external audit.
- 175 c. Assure all reports from the external auditor go directly to the Committee.
- 176 6-6. *Compliance*. The Committee shall review the effectiveness of the system for monitoring
177 compliance with laws and regulations and the results of an entity's investigation and
178 follow-up of any instances of non-compliance. Special audits and/or investigations may be
179 recommended by the Audit Committee.
- 180 6-7. *Other Responsibilities*. The Committee shall complete a self-evaluation annually to
181 identify improvement opportunities. This includes comparing the Committee's
182 performance to its bylaws, any formal guidelines and rules, and against best practices.
183 Such review is confidential and may or may not include evaluations of particular members.

184

186

187 These Bylaws are hereby attested to as adopted by the Audit Committee at a duly called meeting
188 held on the _____ of _____, 2016 by the Audit Committee Chairperson's
189 signature.

190

191

192 _____
193 Tehassi Hill, Chairperson
194 Audit Committee

195
196 These By-Laws are also approved by the Oneida Business Committee at a duly called meeting
197 held on the _____ of _____, 2016 by the Secretary of the Oneida Business
198 Committee's signature.

199
200
201 _____
202 Lisa Summers, Tribal Secretary
203 Oneida Business Committee
204



Legislative Operating Committee

January 20, 2016

Marriage Law Amendments

Submission Date: November 4, 2015

Public Meeting:
 Emergency Enacted:

LOC Sponsor: Fawn Billie

Summary: *This item is a proposal to amend the Marriage Law to provide for a way to waive the standard waiting period between applying for a license and solemnizing the marriage, provide for an administrative fee for amendments to an application after it has been submitted and to provide for a process to adopt a fee schedule.*

11/04/15 LOC: Motion by Jennifer Webster to add the Marriage Law Amendments to the Active Files List; seconded by Tehassi Hill. Motion carried unanimously.

1/6/16 LOC: Motion by Fawn Billie to accept the legislative analysis for the Marriage Law amendments, defer the amendments to the Finance Department for a fiscal impact statement and direct the Legislative Reference Office to prepare the amendments for a public meeting to be held on February 18, 2016; seconded by Jennifer Webster. Motion carried unanimously.

Next Steps:

- Approve the public meeting packet for the Marriage Law Amendments and forward to a public meeting date on February 18, 2016.



Notice of

Public Meeting

to be held

February 18, 2016 at 12:15 p.m.

OBC Conference Room—2nd Floor, Norbert Hill Center



Topic: Marriage Law Amendments

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal that would:

- ◆ clarify the process in which a fee schedule is to be adopted;
- ◆ provide for a way to waive the standard waiting period between applying for a license and solemnizing the marriage;
- ◆ provide for an administrative fee for amendments to an application after it has been submitted

All community members are invited to attend this meeting to learn more about this proposal and/or to submit comments concerning this proposal.

Public Comment Period—Open until February 25, 2016

During the Public Comment Period, all interested persons may submit written comments regarding this legislative proposal; and/or a transcript of any testimony/spoken comments made during the Public Meeting. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person or by U.S. mail, interoffice mail, e-mail or fax.

For more information about the public meeting process, or to obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office, which is located on the second floor of the Norbert Hill Center, Oneida WI.

Mail: **Legislative Reference Office**
PO Box 365
Oneida, WI 54155

Phone: **(920) 869-4376 or (800) 236-2214**
E-Mail: **LOC@oneidanation.org**
Fax: **(920) 869-4040**



Marriage Law Amendments

<i>Analysis by the Legislative Reference Office</i>				
Title	Marriage (Law)			
Requester	Tonya Webster	Drafter	Douglass McIntyre	Analyst Maureen Perkins
Reason for Request/Purpose	The licensing department has had issues with implementation of the Law and has provided suggested amendments. Authorize a waiver process for the waiting period [71.5-4]. Provide an administrative fee for changes requested after an application is submitted. Adopt a fee schedule [71.5-1].			
Authorized/Affected Entities	Family Court, licensing department, anyone that wishes to marry under this Law			
Related Legislation	Any person issued a fine under this law can appeal through the Judiciary [See 71.5-1 & 71.5-1(g)].			
Enforcement & Due Process	Any person who knowingly violates this law will be subject to a fine; the licensing department is responsible for enforcing fines issued [See 71.7-1 & 71.7-2].			

Overview

The Law regulates the rights and responsibilities with respect to marriage.

Proposed Amendments

The following are proposed amendments to the Law:

- Applicants will be required to pay all fees at the time the license is issued. The Law authorizes the OBC to set the fee schedule by resolution. The OBC shall seek the departments' recommendation when determining the appropriate fee schedule [71.5-1].
- Language has been added to clarify that a marriage ceremony must take place between the 6th and 30th day of receiving the marriage license [See 71.5-4].
- A waiver process has been created to allow for the marriage ceremony to take place between the 1st and 5th day of issuing the marriage license for an additional fee [See 71.5-4].

Considerations

- The request to provide an administrative fee for amendments to a submitted application has been addressed indirectly under the fee section of the law [See 71.5-1]. The fee section is broad and allows for the Business Committee to adopt a fee schedule upon recommendation of the department. This can include an administrative fee for amendments to submitted applications at the Business Committees' discretion.

Miscellaneous

A public meeting was not held. Revisions were made to this Law which complies with drafting styles. Revisions were also made to improve the flow and sequence of the Law without changing the intended content. Please refer to the fiscal impact statement for any financial impacts.

CHAPTER 71
MARRIAGE
Yeny@kta>

71.1. Purpose and Policy
71.2. Adoption, Amendment, Conflicts
71.3. Definitions
71.4. Marriages, Generally

71.5. Marriage Document and Marriage Ceremony
71.6. Marriages Conducted to Avoid the Law and Immaterial
Irregularities
71.7. Penalties

1
2 **71.1. Purpose and Policy**

3 71.1-1. *Purpose.* It is the purpose of this Law to exercise the sovereign right of the Oneida
4 Tribe to regulate the rights and responsibilities relating to marriage.

5 71.1-2. *Policy.* Marriage is a foundation of Tribal society that stabilizes families which the
6 Tribe acknowledges by recognizing the legal relationship of a union between two adults.

7
8 **71.2. Adoption, Amendment, Conflicts**

9 71.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-04-28-10-F
10 and amended by resolutions BC-06-12-13-E, ~~and~~ BC-05-27-15-A and _____.

11 71.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to
12 the procedures set out in the Legislative Procedures Act.

13 71.2-3. Should a provision of this Law or the application thereof to any person or circumstances
14 be held as invalid, such invalidity shall not affect other provisions of this Law which are
15 considered to have legal force without the invalid portions.

16 71.2-4. In the event of a conflict between a provision of this Law and a provision of another law,
17 the provisions of this Law shall control. Provided that, nothing in this Law is intended to repeal
18 or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

19 71.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians
20 of Wisconsin.

21 71.2-6. *Rules.* If rules addressing a certain area of this Law have not been enacted in accordance
22 with Tribal law and the Court is faced with a question, the Court may, in its discretion, refer to
23 other Indian tribal law or state law for guidance, to the extent that such law is not inconsistent
24 with this or any other Tribal law.

25
26 **71.3. Definitions**

27 71.3-1. This section shall govern the definitions of words and phrases used within this Law. All
28 words not defined herein shall be used in their ordinary and everyday sense.

29 (a) "Court" means Family Court, which is a branch of the judicial arm of the Tribe~~the~~
30 ~~judicial system of the Tribe which is assigned to handle all family law matters.~~

31 (b) "Court of competent jurisdiction" means a court that has the power and authority to
32 dissolve a marriage.

33 (c) "Department" means the licensing department of the Tribe that is responsible for
34 administering and issuing licenses in accordance with Oneida-Tribal laws.

35 (d) "Marriage" means the civil contract to which the consent of the parties capable in law
36 of contracting is essential, and which creates the legal status of spouses.

37 (e) "Marriage document" means that document issued by the Department which includes
38 the marriage license as well as information concerning the marriage ceremony, the
39 signatures of the witnesses and officiating person(s), and proof of filing.

40 (f) "Marriage license" means that portion of the marriage document designated as such,
41 which is the authorization for the marriage to take place.

42 (g) "Officiating person" means the person or persons who perform the marriage

- 43 ceremony.
- 44 (h) "Reservation" means all the land within the exterior boundaries of the Reservation of
- 45 the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the
- 46 Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.
- 47 (i) "Tribe" or "Tribal" means the Oneida Tribe of Indians of Wisconsin.
- 48

49 **71.4. Marriages, Generally**

50 71.4-1. *Who May Marry.* A marriage may be contracted under this Law between two (2) adults

51 who:

- 52 (a) have a marriage document issued by the Department;
- 53 (b) have attained the age of eighteen (18), except as provided in 71.4-3; and
- 54 (c) meet all other provisions under this Law.

55 71.4-2. *Who May Not Marry.* Persons may not enter into marriage if they:

- 56 (a) are currently legally married to another person; or,
- 57 (b) have been legally divorced for less than six (6) months with a judgment of divorce
- 58 from a court of competent jurisdiction; or,
- 59 (c) are not legally competent; or,
- 60 (d) are closer in relationship than second cousins, except first cousins may marry if both
- 61 parties are fifty-five (55) years old or older.

62 71.4-3. *Minors.* Individuals under the age of sixteen (16) shall not marry. Individuals who meet

63 the above requirements, except for 71.4-1(b) and are over the age of sixteen (16) but under the

64 age of eighteen (18) may marry if they present:

- 65 (a) written consent by his or her parent or guardian, signed and notarized before the
- 66 person issuing the marriage license; or
- 67 (b) proof that they have been legally emancipated.
- 68

69 **71.5. Marriage Document and Marriage Ceremony**

70 71.5-1. *Fees.* An applicant is responsible for paying all fees at the time the application is filed.

71 The Oneida Business Committee, upon recommendation of the Department, shall adopt a fee

72 schedule through Resolution for all fees associated under this Law. The Oneida Business

73 Committee may require any fees as long as those fees are consistent with this Law.

74 71.5-2. *Marriage Document.* The Department shall issue a marriage document to the applicants

75 within five (5) business days after the application is filed if, in addition to the other requirements

76 in this Law, the following conditions are met at the time a marriage license is applied for:

- 77 (a) Either (1) or (2) applies to the applicants:
- 78 (1) each applicant:
- 79 (A) is a Tribal member; or
- 80 (B) resides on the Reservation and is a member of an Indian tribe, band or
- 81 community which is recognized by a state or the federal government.
- 82 (2) one of the applicants meets the requirements of (1)(A) or (B) and the other
- 83 applicant consents to the Tribe's jurisdiction to issue the license. The completion
- 84 of an application for a marriage license represents a person's consent to the
- 85 Tribe's jurisdiction to grant the license.
- 86 (b) Both applicants appear in person at the Department to complete the marriage license
- 87 application.
- 88 (c) The applicants provide any information necessary to complete the application, which
- 89 may include: social security numbers, birth certificates, proof of residence, proof of tribal
- 90 membership, documentation of a judgment of divorce, annulment, or death certificates

91 from most recent marriages, parents' full names, mothers' maiden names, date and place
92 of marriage ceremony, and the name, address, and phone number of the officiating
93 person(s).

94 (d) The applicants swear under oath that the information provided is true and accurate
95 and sign the application in the presence of a notary public.

96 (e) The applicants pay the required fees.

97 71.5-~~32~~. *Objections.* Any relative of the applicants, Department official, or applicant that
98 objects to an upcoming marriage may file a petition and sworn affidavit with the Court objecting
99 to the marriage.

100 (a) The petition shall state grounds for the belief that a marriage license should not be
101 issued to the applicants or a marriage license that has already been issued should be
102 revoked.

103 (b) The Court shall approve the petition only if the marriage, if conducted, would violate
104 this Law.

105 (c) If the petition is approved by the Court, the applicants shall show cause why the
106 license should be issued or why the license should not be revoked.

107 71.5-~~43~~. *Marriage Ceremony.*

108 (a) The ~~marriage applicants shall marry not less than~~ must occur between six (6) days
109 after the license is issued and ~~not more than~~ thirty (30) days after the license is issued.
110 The applicant may apply for a waiver of the initial 5 day waiting period for an additional
111 fee. The marriage license shall contain notification of these time limits.

112 (b) If neither applicant resides on the Reservation, the marriage ceremony shall be held
113 on the Reservation. If one (1) or both of the applicants reside on the Reservation, the
114 marriage ceremony shall be held within the State of Wisconsin. The applicants shall be
115 notified of this requirement when applying for a marriage license.

116 (c) The ceremony shall be solemnized by an officiating person(s) with two (2) competent
117 adult witnesses present.

118 (d) The parties shall vow by mutual declarations, before the officiating person(s) and
119 witnesses, that they take each other in lawful matrimony.

120 (e) The parties, the officiating person(s), and the witnesses shall, at the conclusion of the
121 ceremony, sign and date the marriage document.

122 (f) The officiating person(s) shall deliver the original completed marriage document to
123 the Department within three (3) business days after the ceremony. The Department shall
124 deliver the original marriage document to the Wisconsin Vital Statistics Department
125 within ten (10) business days after it is filed. The Department shall retain a file stamped
126 copy and provide a file stamped copy to the married couple.

127 (g) The Department shall keep a marriage license docket and shall enter therein a
128 complete record of the marriage applications and issuance of marriage licenses which
129 shall be available for public inspection during regular business hours.

130 71.5-~~54~~. *Officiating Persons.* The following persons are authorized as officiating persons under
131 this Law:

132 (a) a traditional tribal practitioner or spiritual or religious leader who is commonly
133 recognized as such by the Oneida community or other Indian community and has
134 registered with the Court; or

135 (b) a Judge from the Court or a tribal, federal, or state judge or commissioner authorized
136 to solemnize marriages under tribal, federal or state law; or

137 (c) the Tribal Chairperson or a person designated by the Tribal Chairperson at the
138 request of the persons being married; or

- 139 (d) any ordained clergy person of any religious denomination, society, or sect; or
140 (e) any person licensed by a religious body or appointed by a high-ranking clergy
141 member, if the religious denomination, society, or sect allows the person to solemnize
142 marriages; or
143 (f) the parties themselves, by mutual declarations that they take each other as spouses, in
144 accordance with the customs, rules, and regulations of any religious denomination,
145 society, or sect to which either of the parties belongs.

146
147 **71.6. Marriages Conducted to Avoid the Law and Immaterial Irregularities**

148 71.6-1. If a person is prohibited from marrying another under this Law and goes to another
149 jurisdiction and there contracts a marriage that is prohibited under this Law, such marriage shall
150 not be recognized by the Tribe.

151 71.6-2. No marriage shall be contracted under this Law by a party residing and intending to
152 continue to reside in another jurisdiction, if such marriage would be void if contracted in such
153 other jurisdiction. Every marriage celebrated in violation of this provision shall be void.

154 71.6-3. *Immaterial Irregularities.* A marriage shall be recognized as valid if the marriage is
155 consummated with the full belief on the part of the persons so married that they have been
156 lawfully joined in marriage, and:

- 157 (a) the officiating person(s) did not have the authority to solemnize the marriage; or
158 (b) the marriage license was issued by a department or person who did not have
159 jurisdiction to issue the license; or
160 (c) the marriage license or application for the marriage license had an informality or
161 irregularity; or
162 (d) either or both of the witnesses to the marriage were incompetent; or
163 (e) the marriage ceremony was solemnized outside of the Reservation boundaries, or
164 Brown or Outagamie County, when applicable, or outside of the required time lines listed
165 on the marriage license.

166
167 **71.7. Penalties**

168 71.7-1. A person who knowingly violates this Law may be penalized as follows:

- 169 (a) Any person who swears to a false statement to obtain a marriage license or to help
170 another obtain a marriage license shall be fined no less than five hundred dollars
171 (\$500.00).
172 (b) Any person who is not an officiating person who solemnizes a marriage ceremony
173 shall be fined no less than one hundred dollars (\$100.00).
174 (c) The parties to a marriage and/or the officiating person(s) of a marriage conducted
175 without a valid marriage license or without the presence of two (2) competent adult
176 witnesses shall be fined no less than one hundred dollars (\$100.00).
177 (d) Any person who goes to another jurisdiction to avoid this Law and contracts a
178 marriage prohibited under this Law shall be fined no less than five hundred dollars
179 (\$500.00).
180 (e) Any person who violates any other provision of this Law shall be fined no less than
181 one hundred dollars (\$100.00).

182 71.7-2. The Department shall be the responsible entity for the enforcement of this section. All
183 fines issued shall be paid within thirty (30) days of the issuance of the fine. Any person issued a
184 fine under this Law may contest the fine by filing an appeal with the Court prior to the deadline
185 to pay the fine. The filing of an appeal shall stay the requirement to pay the fine. The notice of
186 penalty issued shall inform the person penalized of the process to file his or her appeal.

187
188 *End.*
189

Adopted-BC-04-28-10-F
Amended-BC-06-12-13-E
Amended-BC-05-27-15-A

CHAPTER 71
MARRIAGE
Yeny@kta>

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2 **71.1. Purpose and Policy**

3 71.1-1. *Purpose.* It is the purpose of this Law to exercise the sovereign right of the Oneida
4 Tribe to regulate the rights and responsibilities relating to marriage.

5 71.1-2. *Policy.* Marriage is a foundation of Tribal society that stabilizes families which the
6 Tribe acknowledges by recognizing the legal relationship of a union between two adults.

7
8 **71.2. Adoption, Amendment, Conflicts**

9 71.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-04-28-10-F
10 and amended by resolutions BC-06-12-13-E, BC-05-27-15-A and _____.

11 71.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to
12 the procedures set out in the Legislative Procedures Act.

13 71.2-3. Should a provision of this Law or the application thereof to any person or circumstances
14 be held as invalid, such invalidity shall not affect other provisions of this Law which are
15 considered to have legal force without the invalid portions.

16 71.2-4. In the event of a conflict between a provision of this Law and a provision of another law,
17 the provisions of this Law shall control. Provided that, nothing in this Law is intended to repeal
18 or modify any existing law, ordinance, policy, regulation, rule, resolution or motion.

19 71.2-5. This Law is adopted under authority of the Constitution of the Oneida Tribe of Indians
20 of Wisconsin.

21 71.2-6. *Rules.* If rules addressing a certain area of this Law have not been enacted in accordance
22 with Tribal law and the Court is faced with a question, the Court may, in its discretion, refer to
23 other Indian tribal law or state law for guidance, to the extent that such law is not inconsistent
24 with this or any other Tribal law.

25
26 **71.3. Definitions**

27 71.3-1. This section shall govern the definitions of words and phrases used within this Law. All
28 words not defined herein shall be used in their ordinary and everyday sense.

29 (a) "Court" means Family Court, which is a branch of the judicial arm of the Tribe.

30 (b) "Court of competent jurisdiction" means a court that has the power and authority to
31 dissolve a marriage.

32 (c) "Department" means the licensing department of the Tribe that is responsible for
33 administering and issuing licenses in accordance with Tribal laws.

34 (d) "Marriage" means the civil contract to which the consent of the parties capable in law
35 of contracting is essential, and which creates the legal status of spouses.

36 (e) "Marriage document" means that document issued by the Department which includes
37 the marriage license as well as information concerning the marriage ceremony, the
38 signatures of the witnesses and officiating person(s), and proof of filing.

39 (f) "Marriage license" means that portion of the marriage document designated as such,
40 which is the authorization for the marriage to take place.

41 (g) "Officiating person" means the person or persons who perform the marriage
42 ceremony.

43 (h) "Reservation" means all the land within the exterior boundaries of the Reservation of
44 the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838 Treaty with the
45 Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

46 (i) "Tribe" or "Tribal" means the Oneida Tribe of Indians of Wisconsin.

47 48 **71.4. Marriages, Generally**

49 71.4-1. *Who May Marry.* A marriage may be contracted under this Law between two (2) adults
50 who:

51 (a) have a marriage document issued by the Department;

52 (b) have attained the age of eighteen (18), except as provided in 71.4-3; and

53 (c) meet all other provisions under this Law.

54 71.4-2. *Who May Not Marry.* Persons may not enter into marriage if they:

55 (a) are currently legally married to another person; or,

56 (b) have been legally divorced for less than six (6) months with a judgment of divorce
57 from a court of competent jurisdiction; or,

58 (c) are not legally competent; or,

59 (d) are closer in relationship than second cousins, except first cousins may marry if both
60 parties are fifty-five (55) years old or older.

61 71.4-3. *Minors.* Individuals under the age of sixteen (16) shall not marry. Individuals who meet
62 the above requirements, except for 71.4-1(b) and are over the age of sixteen (16) but under the
63 age of eighteen (18) may marry if they present:

64 (a) written consent by his or her parent or guardian, signed and notarized before the
65 person issuing the marriage license; or

66 (b) proof that they have been legally emancipated.

67 68 **71.5. Marriage Document and Marriage Ceremony**

69 71.5-1. *Fees.* An applicant is responsible for paying all fees at the time the application is filed.
70 The Oneida Business Committee, upon recommendation of the Department, shall adopt a fee
71 schedule through Resolution for all fees associated under this Law. The Oneida Business
72 Committee may require any fees as long as those fees are consistent with this Law.

73 71.5-2. *Marriage Document.* The Department shall issue a marriage document to the applicants
74 within five (5) business days after the application is filed if, in addition to the other requirements
75 in this Law, the following conditions are met at the time a marriage license is applied for:

76 (a) Either (1) or (2) applies to the applicants:

77 (1) each applicant:

78 (A) is a Tribal member; or

79 (B) resides on the Reservation and is a member of an Indian tribe, band or
80 community which is recognized by a state or the federal government.

81 (2) one of the applicants meets the requirements of (1)(A) or (B) and the other
82 applicant consents to the Tribe's jurisdiction to issue the license. The completion
83 of an application for a marriage license represents a person's consent to the
84 Tribe's jurisdiction to grant the license.

85 (b) Both applicants appear in person at the Department to complete the marriage license
86 application.

87 (c) The applicants provide any information necessary to complete the application, which
88 may include: social security numbers, birth certificates, proof of residence, proof of tribal
89 membership, documentation of a judgment of divorce, annulment, or death certificates
90 from most recent marriages, parents' full names, mothers' maiden names, date and place

91 of marriage ceremony, and the name, address, and phone number of the officiating
92 person(s).

93 (d) The applicants swear under oath that the information provided is true and accurate
94 and sign the application in the presence of a notary public.

95 (e) The applicants pay the required fees.71.5-3. *Objections.* Any relative of the applicants,
96 Department official, or applicant that objects to an upcoming marriage may file a petition and
97 sworn affidavit with the Court objecting to the marriage.

98 (a) The petition shall state grounds for the belief that a marriage license should not be
99 issued to the applicants or a marriage license that has already been issued should be
100 revoked.

101 (b) The Court shall approve the petition only if the marriage, if conducted, would violate
102 this Law.

103 (c) If the petition is approved by the Court, the applicants shall show cause why the
104 license should be issued or why the license should not be revoked.

105 71.5-4. *Marriage Ceremony.*

106 (a) The marriage must occur between six (6) days after the license is issued and thirty
107 (30) days after the license is issued. The applicant may apply for a waiver of the initial 5
108 day waiting period for an additional fee. The marriage license shall contain notification
109 of these time limits.

110 (b) If neither applicant resides on the Reservation, the marriage ceremony shall be held
111 on the Reservation. If one (1) or both of the applicants reside on the Reservation, the
112 marriage ceremony shall be held within the State of Wisconsin. The applicants shall be
113 notified of this requirement when applying for a marriage license.

114 (c) The ceremony shall be solemnized by an officiating person(s) with two (2) competent
115 adult witnesses present.

116 (d) The parties shall vow by mutual declarations, before the officiating person(s) and
117 witnesses, that they take each other in lawful matrimony.

118 (e) The parties, the officiating person(s), and the witnesses shall, at the conclusion of the
119 ceremony, sign and date the marriage document.

120 (f) The officiating person(s) shall deliver the original completed marriage document to
121 the Department within three (3) business days after the ceremony. The Department shall
122 deliver the original marriage document to the Wisconsin Vital Statistics Department
123 within ten (10) business days after it is filed. The Department shall retain a file stamped
124 copy and provide a file stamped copy to the married couple.

125 (g) The Department shall keep a marriage license docket and shall enter therein a
126 complete record of the marriage applications and issuance of marriage licenses which
127 shall be available for public inspection during regular business hours.

128 71.5-5. *Officiating Persons.* The following persons are authorized as officiating persons under
129 this Law:

130 (a) a traditional tribal practitioner or spiritual or religious leader who is commonly
131 recognized as such by the Oneida community or other Indian community and has
132 registered with the Court; or

133 (b) a Judge from the Court or a tribal, federal, or state judge or commissioner authorized
134 to solemnize marriages under tribal, federal or state law; or

135 (c) the Tribal Chairperson or a person designated by the Tribal Chairperson at the
136 request of the persons being married; or

137 (d) any ordained clergyperson of any religious denomination, society, or sect; or

138 (e) any person licensed by a religious body or appointed by a high-ranking clergy
139 member, if the religious denomination, society, or sect allows the person to solemnize
140 marriages; or

141 (f) the parties themselves, by mutual declarations that they take each other as spouses, in
142 accordance with the customs, rules, and regulations of any religious denomination,
143 society, or sect to which either of the parties belongs.
144

145 **71.6. Marriages Conducted to Avoid the Law and Immaterial Irregularities**

146 71.6-1. If a person is prohibited from marrying another under this Law and goes to another
147 jurisdiction and there contracts a marriage that is prohibited under this Law, such marriage shall
148 not be recognized by the Tribe.

149 71.6-2. No marriage shall be contracted under this Law by a party residing and intending to
150 continue to reside in another jurisdiction, if such marriage would be void if contracted in such
151 other jurisdiction. Every marriage celebrated in violation of this provision shall be void.

152 71.6-3. *Immaterial Irregularities.* A marriage shall be recognized as valid if the marriage is
153 consummated with the full belief on the part of the persons so married that they have been
154 lawfully joined in marriage, and:

155 (a) the officiating person(s) did not have the authority to solemnize the marriage; or

156 (b) the marriage license was issued by a department or person who did not have
157 jurisdiction to issue the license; or

158 (c) the marriage license or application for the marriage license had an informality or
159 irregularity; or

160 (d) either or both of the witnesses to the marriage were incompetent; or

161 (e) the marriage ceremony was solemnized outside of the Reservation boundaries, or
162 Brown or Outagamie County, when applicable, or outside of the required time lines listed
163 on the marriage license.
164

165 **71.7. Penalties**

166 71.7-1. A person who knowingly violates this Law may be penalized as follows:

167 (a) Any person who swears to a false statement to obtain a marriage license or to help
168 another obtain a marriage license shall be fined no less than five hundred dollars
169 (\$500.00).

170 (b) Any person who is not an officiating person who solemnizes a marriage ceremony
171 shall be fined no less than one hundred dollars (\$100.00).

172 (c) The parties to a marriage and/or the officiating person(s) of a marriage conducted
173 without a valid marriage license or without the presence of two (2) competent adult
174 witnesses shall be fined no less than one hundred dollars (\$100.00).

175 (d) Any person who goes to another jurisdiction to avoid this Law and contracts a
176 marriage prohibited under this Law shall be fined no less than five hundred dollars
177 (\$500.00).

178 (e) Any person who violates any other provision of this Law shall be fined no less than
179 one hundred dollars (\$100.00).

180 71.7-2. The Department shall be the responsible entity for the enforcement of this section. All
181 fines issued shall be paid within thirty (30) days of the issuance of the fine. Any person issued a
182 fine under this Law may contest the fine by filing an appeal with the Court prior to the deadline
183 to pay the fine. The filing of an appeal shall stay the requirement to pay the fine. The notice of
184 penalty issued shall inform the person penalized of the process to file his or her appeal.
185

186 *End.*
187

Adopted-BC-04-28-10-F
Amended-BC-06-12-13-E
Amended-BC-05-27-15-A



Legislative Operating Committee

January 20, 2016

Vendor Licensing Law Amendments

Submission Date: November 18, 2015

Public Meeting:
 Emergency Enacted:

LOC Sponsor: Jennifer Webster

Summary: *This item is being amended because the SEOTS staff ran into issues when trying to obtain a new vendor. Additional changes in format are needed to comply with the Legislative Procedures Act.*

11/18/15 LOC: Motion by Fawn Billie to add the Vendor Licensing Law Amendments to active files list with either Jennifer Webster or Brandon Stevens as the sponsor; seconded by David P. Jordan. Motion carried unanimously.

Note: The sponsor of this item will be determined at the next LOC meeting.

12/2/15 LOC: Motion by Jennifer Webster to identify Jennifer Webster as the sponsor for the Vendor Licensing Law; seconded by Fawn Billie. Motion carried unanimously.

1/4/16: Work meeting held. Attendees include Jennifer Webster, Brandon Stevens, Tehassi Hill, David P. Jordan, Fawn Billie, Nicolas Reynolds, Mark Powless, Tonya Webster, Douglass McIntyre.

Next Steps:

- Defer the draft to the Legislative Reference Office for a legislative analysis and to the Finance Department for a financial impact statement.

Chapter 56
ONEIDA VENDOR LICENSING
Lonatkehlun\$ kanakt%tha>
they are permitted to sell to one

56.1. Purpose and Policy.

56.2. Adoption, Amendment Repeal.

56.3. Definitions.

56.4. Scope of the Requirement.

56.5. Application/Renewal Procedures

56.6. Fees for Licensure

56.7. Appeal of License Decisions

56.8. Revocation of Vendor's License

56.9. Specific Requirements

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~~56.1.1. Purpose and Policy~~

~~56.2.1. Adoption, Amendment Repeal~~

~~56.3.1. Definitions~~

~~56.4.1. Scope of the Requirement~~

~~56.5.1. Application/Renewal Procedures~~

~~56.6.1. Fees for Licensure~~

~~56.7.1. Appeal of Agency and License Commission Decisions~~

~~56.8.1. Revocation of Vendor's License~~

~~56.9.1. Specific Requirements~~

~~56.10.1. Exempt Status~~

56.1-1. Purpose and Policy.

56.-1. Purpose. The purpose of this Ordinance is to:

(a) regulate and license all vendors who provide a service for and do business with the Oneida Tribe of Indians of Wisconsin.

~~(b) 56.1-2. Furthermore, it is the purpose of this ordinance to~~ provide regulations, criteria and procedures for the issuance of licenses to all vendors who provide a service for or do business with the Tribe.

~~(c) 56.1-3. It is also the purpose of this ordinance to generate~~ revenue for the Oneida Tribe of Indians of Wisconsin by implementing and enforcing a collection of fees from vendors for a license to perform a service for or do business with the Tribe.

56.1-24. Policy. It is the policy of the Oneida Tribe of Indians of Wisconsin to utilize the Oneida ~~Compliance~~Finance Division as the authority to implement and enforce the issuance of vendor's licenses and for the collection of fees.

56.2-1. Adoption, Amendment Repeal.

56.2-1. This ordinance ~~was~~is adopted by the Oneida Business Committee by resolution # BC-3-5-97-E and amended by resolution BC-02-25-15-C and _____.

56.2-2. This ordinance may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the ~~Oneida Administrative~~Legislative Procedures Act. ~~by the Oneida Business Committee or the Oneida General Tribal Council.~~

56.2-3. Should a provision of this ordinance or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this ordinance which are considered to have legal force without the invalid portions.

56.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control. ~~All other Oneida laws, policies, regulations, rules, resolutions, motions and all other similar actions which are inconsistent with this ordinance as related to the licensing of vendors by the Compliance Division are hereby repealed unless specifically re-enacted after adoption of this ordinance.~~

56.2-5. This law is adopted under the authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

34 **56.3-1. Definitions.**

35 56.3-1. This ~~Article section~~ shall govern the definitions of words or phrases within this
36 ordinance, as used herein. All words not defined herein shall be used in their ordinary and
37 everyday sense.

38 ~~56.3-2. “Emergency Situation” means an unforeseen occurrence that requires immediate attention,~~
39 ~~the absence of which would endanger the health or safety of others, cause the loss of perishable~~
40 ~~goods, or create an economic hardship due to the unavoidable imminent nature of the~~
41 ~~circumstance.~~

42 (a) 56.3-3. “Business Entity” means that which exists as a particular and discrete unit,
43 but not limited to, any person, partnership, corporation, joint venture, franchise,
44 governmental enterprise, or any other natural or artificial person or organization. The
45 term “entity” is intended to be as broad and encompassing as possible to ensure the
46 jurisdiction of the Oneida Vendor’s Licensing Ordinance.

47 (b) “Emergency Situation” means an unforeseen occurrence that requires immediate
48 attention, the absence of which would endanger the health or safety of others, cause the
49 loss of perishable goods, or create an economic hardship due to the unavoidable
50 imminent nature of the circumstance.

51 ~~56.3-4. “Vendor’s License” means a permit granted by an appropriate governmental body to a~~
52 ~~person, business, or corporation to pursue some occupation or to carry on some business or~~
53 ~~service, and which is subject to regulations of the Oneida Nation.~~

54 (c) “Judiciary” means the judicial system that was established by Oneida General Tribal
55 Council resolution GTC-01-07-13-B to administer the judicial authorities and
56 responsibilities of the Tribe.

57 (d) 56.3-5. “License Fee” means that fee imposed upon all vendors who apply to
58 perform a service for or do business with the Oneida Tribe of Indians of Wisconsin as
59 established ~~and calculated by the Compliance Division pursuant to the regulatory grant of~~
60 ~~power afforded them~~ by this ordinance.

61 (e) 56.3-6. “Licensing Agent” means an employee of the Oneida Licensing Department
62 of the Oneida ~~Compliance~~Finance Division with the delegated authority and
63 responsibility to implement and enforce this ordinance.

64 ~~56.3-7. “Oneida Compliance Division” means that division within the Oneida~~
65 ~~administration with the purpose and authority to oversee adherence to laws, ordinances,~~
66 ~~policies and procedures of the Oneida Tribe.~~

67 ~~56.3-8. “Oneida License Commission” means the regulatory entity formed to conduct~~
68 ~~hearings and decide cases of licensing disputes as they relate to those licenses, certificates~~
69 ~~or permits issued by the Compliance Division.~~

70 (f) 56.3-9. “Oneida Licensing Department” means that department located within the
71 organizational structure of the ~~Compliance~~Finance Division of the Oneida Tribe which is
72 responsible for administering licensing programs on behalf of the Tribe, hereafter
73 referred to as department.

74 (g) “Training Session” means an educational experience contracted wholly for the
75 education of tribal members or employees.

76 (h) “Tribal Members” means persons who are enrolled with the Oneida Tribe of Indians
77 of Wisconsin.

78 (i) 56.3-10. “Tribe” or “Tribal Oneida Nation” means the Oneida Tribe of Indians of
79 Wisconsin.

80 ~~56.3 11. “Training Session” means an educational experience contracted wholly for the~~
81 ~~education of tribal members or employees.~~

82 ~~56.3 12. “Tribal Members” means persons who are enrolled with the Oneida Tribe of Indians of~~
83 ~~Wisconsin.~~

84 ~~56.3 13. “Judiciary” means the judicial system that was established by Oneida General Tribal~~
85 ~~Council resolution GTC 01-07-13-B to administer the judicial authorities and responsibilities of~~
86 ~~the Tribe.~~

87 (j) “Vendor’s License” means a permit granted by an appropriate governmental body to a
88 person, business, or corporation to pursue some occupation or to carry on some business
89 or service, and which is subject to regulations of the Tribe.

91 **56.4-1. Scope of the Requirement.**

92 56.4-1. The provisions and requirements of these regulations shall be adhered to by all business
93 entities and shall apply to every-one and every business entity that performs services and/or does
94 business with the Oneida Nation Tribe separate from and in addition to those requirements
95 imposed by other Tribal entities, such as, the Oneida Gaming Commission and the Division of
96 Land Management.

97 ~~56.4 2. A grace period of sixty (60) days from the date of the original passage of the Oneida~~
98 ~~Vendor’s Licensing Ordinance shall be granted in order that all business entities may be brought~~
99 ~~into compliance with this Ordinance.~~

100 ~~56.4 3. Notice shall be given for implementation of the Oneida Vendor’s Licensing Ordinance~~
101 ~~pursuant to the requirements of the Administrative Procedures Act adopted by resolution GTC-8-~~
102 ~~19-91 A.~~

103 56.4-2-4. All information given ~~information given~~ for purposes of receiving a vendor’s license
104 for doing business with the Oneida Nation Tribe, excluding financial information, is considered
105 subject to a request for information and available for public inspection. Provided further, that all
106 information given for purposes of receiving a vendor’s license for doing business with the
107 Oneida Nation Tribe, including financial information, is subject to internal audit of the Oneida
108 Nation Tribe.

110 **56.5-1. Application/Renewal Procedures**

111 56.5-1. (a)—The department shall notify all new applicants of the Oneida Vendor’s Licensing
112 Ordinance requirements and procedures for application. Upon request of the licensing agent, the
113 applicant shall be required to provide the necessary documentation to verify the following
114 information:

- 115 (a) The name of the business entity, with proof of identification
- 116 (b) The type of business,
- 117 (c) The business address and the name of the agent for service of process,
- 118 (d) Verification of required adequate, insurance coverage or bonding,
- 119 (e) Federal I.D. number or Social Security number.
- 120 (f) Accounts Payable Vendor Number, this information may be provided by the
121 licensing agent,
- 122 (g) Food vendor
- 123 (h) Name of buyer, buyer’s address, items sold or services offered
- 124 (i) Signature of applicant and date of application

125 | ~~56.5-2. (b)~~—The licensing agent shall deny, or approve the application based on compliance with
126 | the criteria set in this ordinance, verification of the requested information, and; whether or not
127 | the following exist:

128 | ~~(a)~~ payment of the fee paid at the time of application; if the fee is not paid the vendor's
129 | license will not be issued. If a business entity is doing business with the ~~Oneida~~
130 | ~~NationTribe~~ without a vendor's license the department shall notify the Accounting
131 | Department to recover the fee by retaining the amount from compensation for the product
132 | or services rendered by the vendor;

133 | ~~(b)~~ first time vendor fees may be prorated per licensing agent's guidelines;

134 | ~~(c)~~ any outstanding fees owed to the ~~Oneida NationTribe~~, all outstanding fees must be
135 | paid before a vendor's license will be issued;

136 | ~~(d)~~ inadequate insurance coverage; insurance verification must be provided to the agent
137 | before the vendor's license is issued, the licensing agent will forward the information to
138 | Oneida Risk Management for approval; if the applicant/entity has inadequate insurance
139 | coverage, the vendor's license will not be issued;

140 | ~~(e)~~ other factors which relate to the protection of Tribal and/or public health, safety, or
141 | welfare.

142 | ~~56.5-3. (e)~~—The licensing agent shall notify the applicant of the approval, or denial of the
143 | application within ten (10) working days, and:

144 | ~~(a)~~ if approved, the licensing agent shall issue the vendor's license to the business
145 | entity; and

146 | ~~(b)~~ if the vendor's license is denied, the reasons for denial of the vendor's license; and

147 | ~~(c)~~ notification of a right to request an appeal to the decision.

148 | ~~56.5-4. (d)~~—A number shall be assigned to each vendor's license by the licensing agent for
149 | identification.

150 | ~~56.5-5. (e)~~—All applications for vendor's license and a copy of each certificate of vendor's
151 | license shall be retained by the licensing agent for one (1) year from date of application;
152 | thereafter, said documents shall be retained ~~by Oneida Records Management~~ for seven years.

153 | 56.5-~~6~~2. Renewal procedures shall be as follows:

154 | (a) The vendor's license shall be applied for annually.

155 | (b) Vendor's license renewal shall be on a yearly basis, from date of issuance of the
156 | vendor's license.

157 |

158 | **56.6-1. Fees for Licensure**

159 | ~~56.6-1. (a) The Oneida Business Committee, upon recommendation of the Department, shall~~
160 | ~~adopt a fee schedule through Resolution for all fees associated under this Law. The Oneida~~
161 | ~~Business Committee may require any fees as long as those fees are consistent with this Law.~~

162 | ~~The fee for a vendor's license shall be pursuant to an equitable fee schedule as established~~
163 | ~~initially by the department, and as reviewed annually by the License Commission, with~~
164 | ~~recommendations from the Oneida Finance Committee and approval of the Oneida Business~~
165 | ~~Committee.~~

166 | ~~56.6-2. (b)~~—The department shall retain not more than 50% of the vendor's license fees
167 | collected; the balance of the fees collected will be transferred to the Trust Department to be
168 | placed in the Elderly Per Capita Fund.

169 | ~~56.6-3. (e)~~—The vendor's license fee shall cover a twelve (12) month period, and

170 | ~~(a1)~~ The fee shall be paid annually at the time of the application. The fee shall be
171 | returned if application is denied.

172 | ~~(b2)~~ The licensing agent shall keep fee records.

173 | ~~(c3)~~ Late fee payment may be added to cost of annual license fee. ~~If fee is due, the~~
174 | ~~applicant/entity may be charged \$3 per month, see sec. 5-1(b)(1-3).~~

175 | 56.6-4. ~~(d)~~—The vendor’s license shall be prepared and sent out by the licensing agent. All
176 | vendor’s licenses shall be conspicuously placed on or in the premises of the place of business or
177 | service.

178 | 56.6-5. ~~(e)~~—The fee shall be determined and based upon the revenue as generated by the business
179 | entity with the ~~Oneida Nation Tribe~~ the year directly preceding that year and date in which the
180 | business entity applies for licensure. Business’ with no revenue history shall pay a fee
181 | determined by the department based upon a projected revenue figure.

182 | **56.7-1. Appeal of ~~Agency and License Commission~~ Decisions**

183 | 56.7-1. ~~Oneida License Commission Hearings.~~

184 | ~~(a)~~—Parties who disagree with the decisions of the ~~licensing agent~~Department on matters of
185 | dispute regarding issues of licensing, certification or permits issued by the ~~Compliance~~
186 | ~~Division~~Department, may request a hearing before the ~~License Commission~~Administrative
187 | Court.

188 | ~~(b)~~ ~~Hearings before the License Commission will be pursuant to the original hearing procedures~~
189 | ~~as set out in the Administrative Procedures Act.~~

190 | 56.7-2. ~~Appeal of License Commission Decisions.~~ A party may appeal to the Appellate Court
191 | ~~Judiciary~~—for an appellate review and final determination of the ~~License Commission~~
192 | Administrative Court decision.

193 | **56.8-1. Revocation of Vendor’s License**

194 | 56.8-1. A vendor’s license issued by the Licensing Department may be revoked by the licensing
195 | agent if the business entity is in non-compliance with this ordinance, inadequate insurance
196 | coverage, or for any other reasons related to protection of Tribal and/or public health, safety, or
197 | welfare, pursuant to the following procedures:

198 | (a) the business entity is notified of the revocation by the licensing agent and the reasons
199 | for the revocation; and

200 | (b) the business entity is given thirty (30) days in which to rectify the non-compliance,
201 | except in the case of inadequate insurance coverage, in which case the vendor’s license
202 | will be revoked when the information of inadequate coverage is verified; and

203 | (c) should the business entity come into compliance or secure adequate insurance
204 | coverage, the vendor’s license shall be reinstated;

205 | (d) if compliance is unattainable, the business entity is notified of his/her right to appeal
206 | the licensing agent’s decision to revoke the vendor’s license.

207 | 56.8-2. Procedures for non-compliance and revocation of a vendor’s license after thirty (30)
208 | days shall be as follows:

209 | (a) ~~the Department shall deactivate the vendor and~~ Notice will be given to the Oneida
210 | Accounting Department that vendor’s license has been revoked, whereupon the
211 | Accounting Department shall suspend all future payment to said vendor for all services or
212 | goods.
213 |
214 |

215 (b) Upon revocation of the vendor's license, the business entity shall be prevented from
216 | doing business with the ~~Oneida Nation~~Tribe until such time the former licensee is able to
217 | comply with the Ordinance and submits a new application.

218 | (1) Any fees owed shall be deducted from any potential compensation due to the
219 | provider.

220 | (2) Verification and approval of required insurance coverage shall be provided by
221 | the Oneida Risk Management Department.
222

223 | **56.9-4. Specific Requirements**

224 | 56.9-1. Applicants subject to approval must be in compliance with requirements as set forth in
225 | all related Tribal ordinances, including but not limited to, Oneida Indian Preference laws, Oneida
226 | Food Vendors Ordinance, Real Property Law, and Oneida gaming laws.

227 | 56.9-2. A food vendor shall be issued a vendor's license contingent upon the requirements of the
228 | Oneida Environmental Health Department which includes a certificate of training and written
229 | notice to the department. A certificate from the Oneida Environmental Health Department
230 | certifying completion of necessary requirements and instructions for safe food handling must be
231 | presented at time of application.

232 | 56.9-3 Applicants who are contracting for construction work must have their bid awarded by the
233 | Oneida Tribe in accordance with the Construction Improvement Process Policy.

234 | 56.9-4. Applicants who are selling, brokering, or leasing real estate must have approved real
235 | estate licenses as required by the Real Property Law.

236 | 56.9-5. Applicants who are contracting for electrical, plumbing, /air conditioning or building
237 | work must be licensed by the Oneida Zoning Department as required by the Building Code of the
238 | Oneida Reservation.
239

240 | **56.10-4. Exempt Status**

241 | 56.10-1. Exempt from Licensure. The following are exempt from licensure:

242 | (a) Services or products provided by another federally recognized Tribe, subject to all
243 | the laws and the Ordinances of the Oneida Tribe.

244 | (b) Services or products provided by another government, subject to all the laws and
245 | ordinances of the Oneida Tribe.

246 | 56.10-2. Exempt from fee. The following must be licensed but are exempt from the required fee:

247 | (a) Those individuals who receive stipend revenue ~~for Oneida Nation~~ as members of
248 | entities of the ~~Oneida Nation~~Tribe.

249 | (b) Vendors whose revenue from Tribe is less than \$1,000 per year.

250 | (c) Consultants, means all individuals, businesses or corporations who have a consultant
251 | relationship with the ~~Oneida Nation~~Tribe for the purpose of providing professional
252 | advice, training or any other service for profit and whose revenue from the ~~Oneida~~
253 | ~~Nation~~Tribe is less than \$500 per year.

254 | (d) Training sessions where the focus is wholly upon the education and/or training of
255 | Tribal members or employees and where the amount contracted for does not exceed
256 | \$2,000. Those training sessions that exceed the \$2,000 limit will be subject to the usual
257 | fees assessed for licensure.

258 | 56.10-3. Deferment. ~~(e)~~ One time deferment for payment of vendor's license fees of up to
259 | thirty (30) days for emergency situations may be granted.

260 | (a) Application for fee deferment must be made at the time of application with specific
261 | explanation of the emergency situation filed in writing by the applicant.

262 | (b) ~~(f)~~ A failure to pay or payment after the deferment date has expired, may be grounds
263 | for denial of a vendor's license or assessment of late fee penalties.

264 | ~~56.10-2. The following are exempt from licensure:~~

265 | ~~(a) Services or products provided by another federally recognized Tribe, subject to all the laws and the~~
266 | ~~Ordinances of the Oneida Tribe.~~

267 | ~~(b) Services or products provided by another government, subject to all the laws and ordinances of the~~
268 | ~~Oneida Tribe.~~

269

270

271

272

273

274 | **ATTACHMENT A**

275 | **VENDORS LICENSING FEE SCHEDULE FOR 1996**
276 | **FLAT FEE AMOUNT**

277

278 | Yearly Oneida Vendors Fee \$100.00

279

280 | Approved by:

281

282 | ONEIDA BUSINESS COMMITTEE:

283

284

285 | Signature: _____ Date: _____

286 | Debra Doxtator, Chairwoman

287

288

289

290 | Signature: _____ Date: _____

291 | Julie Barton, Secretary

292

293

294 | End.

295

296

297 | End.

298 | Adopted- BC-2-17-92-C

299 | Adopted- BC-3-5-97-E

300 | Amended- BC-02-25-15-C



Legislative Operating Committee

January 20, 2016

Real Property Law Amendments

Submission Date: October 7, 2015

Public Meeting:
 Emergency Enacted:

LOC Sponsor: David P. Jordan

Summary: *These amendments will transfer all Land Commission hearing responsibilities to the Judiciary.*

10/7/15 LOC: Motion by David P. Jordan to add the Real Property Law Amendments, Probate Law, Mortgage Law, Landlord-Tenant Law and Land Commission Bylaws Amendments to the Active Files List with himself as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

12/11/15: Work meeting held. Attendees include: David P. Jordan, Brandon Stevens, Rae Skenandore, Nicole Rommel, Rebecca Webster, Maureen Perkins and Krystal John.

12/16/15 LOC: Motion by Jennifer Webster to accept the memorandum update as FYI and to defer the Real Property Law Amendments back to the sponsor and to bring back when ready; seconded by Tehassi Hill. Motion carried unanimously.

12/16/15: Work meeting held. Attendees include: David P. Jordan, Rae Skenandore, Rebecca Webster, Krystal John, Maureen Perkins and Nicole Rommel.

Next Steps:

- Review the draft Real Property Law and provide any feedback and then forward to the LRO for a legislative analysis and to the Finance Department for a fiscal impact statement.

CHAPTER 67
REAL PROPERTY LAW
Tokákske Kayanláhsla Tsi? Ni?yohuntsya'té
The real/certain laws of the territory of the nation

67.1.	Purpose and Policy.	67.8.	Title Transfer.
67.2.	Adoption, Amendment, Conflicts.	67.9.	Leasing of Real Property.
67.4.	Definitions.	67.10.	Records.
67.5.	General Provisions	67.11.	Real Estate Licensing and Certification.
67.6.	Holding of Ownership.	67.12.	Real Estate Financing and Foreclosures.
67.7.	Legal Descriptions.	67.13.	Organization.

67.1. Purpose and Policy.

67.1-1. *Purpose*

(a) The purpose of this Law is to provide regulations and procedures for the transfer, control and management of the territory within the ~~exterior boundaries of the Reservation of The Oneida Tribe of Indians of Wisconsin and such other lands as may be added within or without said boundary line; and~~ to integrate these regulations and procedures with the ~~present real property~~ Real Property laws and practices of other federal and state sovereigns which may hold ~~applicable~~ jurisdiction within the reservation; and to establish training and licensing requirements for all persons who list, sell, buy, exchange, lease, rent, or deal in any way with Real Property pursuant to this Law.

~~67.1-2. Policy~~ (b) ~~In addition, this Law establishes a training. It is the policy of the Tribe to set out the responsibilities and licensing mechanism expectations for any person who lists, sells, buys, exchanges, leases, rents, or deals in any way with real property coming under the scope of this Law.~~

(c) ~~Nothing in this Law shall be construed as a waiver of the sovereign immunity of the Oneida Tribe of Indians of Wisconsin.~~

persons handling ~~67.1-2. Policy~~

(a) ~~The provisions of this Law shall extend to all tribal lands and waters held in trust, all tribal lands /or managing Real Property on behalf of the Tribe and waters held in fee status, all fee status lands under the control of individual Oneida members, all heirship lands and waters and all individual and tribal trust lands and waters, all /or within the exterior boundaries of the Oneida Tribe of Indians of Wisconsin Reservation; and to such other lands as may be hereafter added, both within and without the exterior boundaries of the Oneida Reservation, under any law of the United States, except as otherwise provided by law~~ provide Real Property holder's rights and responsibilities.

(b) ~~The licensing provisions of this Law shall extend to any person who lists, sells, buys, exchanges, leases, rents or deals in any way with real property coming under 67.1-2(a), of this Law, including employees of the tribe.~~

(c) ~~Any transaction which would add property to the tribal land base shall be administered through the Division of Land Management under the provisions of this Law.~~

(d) ~~The sale of tribal land is specifically prohibited under this Law, except for the purposes of consolidation or partition of property.~~

(e) ~~It is not intended by this Law to repeal, abrogate, annul, impair or interfere with any rules, regulations, or permits previously adopted or issued pursuant to tribal or federal laws. Further, it is intended that Wisconsin law be considered as an integral part of real property transfer occurring within or without the Reservation, insofar as the transaction is~~

38 ~~between a non-Oneida person(s) who hold fee simple title to land within the Reservation~~
39 ~~and the Tribe or a tribal member.~~
40 ~~(f) Expenses and Fees. The Land Commission shall establish an equitable fee schedule~~
41 ~~for each activity or service provided in this Law. All fees collected will be used for the~~
42 ~~maintenance of services and management of lands which come under the authority of this~~
43 ~~Law.[†]~~
44

45 **67.2. Adoption, Amendment, Conflicts.**

46 67.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-5-29-96-A
47 and amended by resolutions BC-3-01-06-D, BC-04-28-10-E, BC-02-25-15-C and BC-05-13-15-
48 B.

49 67.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to
50 the procedures set out in the ~~Oneida~~ Legislative Procedures Act.

51 67.2-3. Should a provision of this Law or the application thereof to any person or circumstances
52 be held as invalid, such invalidity ~~shall~~does not affect other provisions of this Law which are
53 considered to have legal force without the invalid portions.

54 67.2-4. In the event of a conflict between a provision of this ~~law~~Law and a provision of another
55 law, the provisions of this law ~~shall~~ control. ~~Provided, provided~~ that, ~~nothing in this law is~~
56 ~~intended to repeal or modify any existing law, ordinance, policy, regulation, rule, resolution or~~
57 ~~motion.;~~

58 (a) The Land Ordinance is applicable only to valid land assignments existing as of
59 January 1, 2016 and is hereby repealed upon the expiration of the last existing land
60 assignment.

61 76.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of
62 Wisconsin.

63
64 **67.3. Rules Of Statutory Construction.**

65 ~~67.3-1. General words are understood to be restricted in their meaning by more specific words~~
66 ~~which came before.~~

67 ~~67.3-2. If the meaning of a general word cannot be reconciled with the meaning of a specific~~
68 ~~word in this Law the specific word will control.~~

69 ~~67.3-3. When a series of words of general meaning is followed by words of limitation, the~~
70 ~~limitation will apply only to the last word in the list, unless otherwise stated.~~

71 ~~67.3-4. The word “shall” is mandatory and the word “may” is permissive.~~

72 ~~67.3-5. The Law should be read as a whole. The words are not meant to be isolated, and their~~
73 ~~meaning must be found in reference to the statement as a whole.~~

[†] ~~Other laws that are relevant to the purpose and implementation of this Law include:~~

~~Oneida Shoreland Protection Ordinance~~

~~Oneida Zoning Ordinance~~

~~Oneida Administrative Procedures Act~~

~~25 CFR 150-179 (Land and Water)~~

~~25 CFR 15 (Probate)~~

~~25 CFR 261-265 (Heritage Preservation)~~

~~Wisconsin Statutes and Administrative Code relating to the practice of Real Estate~~

~~State and Federal Laws specifically cited in Ordinance~~

74 ~~67.3-6. If a later enacted Law or statute cannot be read in agreement with an earlier enactment,~~
75 ~~the later enactment will control when interpreting the meaning from context.~~

76 ~~67.3-7. “Land” is used to mean the earth’s surface extending downward to the center of the earth~~
77 ~~and upward to infinity, including things permanently attached by nature, such as tree and water.~~

78 ~~67.3-8. “Real Estate” is used to mean the earth’s surface extending downward to the center of~~
79 ~~the earth and upward to infinity, including all things permanently attached to it, whether natural~~
80 ~~or permanent man-made additions.~~

81 ~~67.3-9. “Real Property” or “Property” is used to mean the earth’s surface extending downward~~
82 ~~to the center of the earth and upward to infinity, including all things permanently attached to it,~~
83 ~~whether natural or permanent man-made additions, plus the bundle of legal rights which include~~
84 ~~control, exclusion, possession, disposition and enjoyment.~~

85 ~~67.3-10. The word “Person” when used in this Law includes individuals, corporations or~~
86 ~~partnerships.~~

87 88 **67.4. Definitions.**

89 ~~67.4-1. Accounting. The responsibility of a broker to report the status of all funds received from~~
90 ~~or on behalf of the principal.~~

91 ~~67.4-2. Agency. Any tribal entity, board, commission, committee, department or officer~~
92 ~~authorized by the Oneida Tribe to propose Law/rules for adoption by the Oneida Business~~
93 ~~Committee. The term “Agency” shall not include the Oneida Business Committee or a tribal~~
94 ~~appeals body.~~

95 ~~67.4-3. Appraisal. A process of estimating a property’s value.~~

96 ~~67.4-4. 67.4-1. This section governs the definitions of words and phrases used within this Law.~~
97 ~~All words not defined herein are to be used in their ordinary and everyday sense.~~

98 ~~(a) “Attorney—A” means a~~ person trained and licensed to represent another person in
99 court, to prepare documents defining or transferring rights in ~~property~~Real Property and
100 to give advice or counsel on matters of law.

101 ~~67.4-5. (b) “Broker—A” means a~~ person who acts as an agent and negotiates the sale,
102 purchase or rental of ~~property~~Real Property on behalf of others for a fee, ~~and must be~~
103 ~~licensed under this Law under certain circumstances.~~

104 ~~67.4-6. Bundle of Rights. The “rights” of ownership include the right of possession, the right to~~
105 ~~control the property within the framework of the law, the right of enjoyment, the right of~~
106 ~~exclusion and the right of disposition.~~

107 ~~67.4-7. (c) “Buyer—The” means the~~ person who ~~purchases a piece of Real Property~~
108 ~~from a seller Broker or salesperson or who~~ hires a ~~broker~~Broker to find a parcel of ~~real~~
109 ~~estate~~Real Property that has certain characteristics or is usable for specific purposes; ~~or~~
110 ~~the person who buys a piece of real estate from a seller broker or salesperson.~~

111 ~~67.4-8. Care. The broker must exercise a reasonable degree of care and skill while transacting~~
112 ~~the business of the principal.~~

113 ~~67.4-9. (d) “Certified Survey Map—A map” means a map which provides the legal~~
114 ~~description of Real Property and is~~ officially filed and approved by the ~~County~~county,
115 Tribal or municipal governments, ~~which provides the legal description of any.~~

116 ~~(e) “Easement” means a Real Property right to cross or otherwise utilize the~~ land in
117 ~~question~~of another for a specified purpose.

118 ~~67.4-10. Contested Cases. A proceeding before an Agency in which an opportunity for a~~
119 ~~hearing before the Agency is required by law prior or subsequent to the determination of the~~
120 ~~Agency of the legal rights, duties, or privileges of specific parties unless otherwise provided for~~

121 by tribal law. This includes the revocation, suspension or modification of a license or permit
122 when a grant of such application is contested by a person directly affected by said licensing or
123 permitting. See Oneida Administrative Procedures Act.

124 67.4-11. Counseling. Providing clients with competent independent advice based on sound
125 judgment, on such things as alternative courses of action regarding the purchase, use and
126 investment of property.

127 67.4-12. Development. The construction of improvements on land.

128 67.4-13. Disclosure. The broker's duty to keep the principal fully informed at all times of all
129 facts or information the broker obtains that could affect the transaction.

130 67.4-14. Dual Agency. When a broker receives compensation from both buyer and seller in a
131 transaction.

132 67.4-15. (f) "Education.—The" means the provision of information to both the real
133 estate practitioner and the consumer.

134 67.4-16. Fiduciary. One who is placed in a position of trust and confidence and normally is
135 responsible for the money and/or property of another. A broker and a salesperson are both
136 fiduciaries.

137 67.4-17. Financing. Financing is the business of providing funds by means of a mortgage loan.

138 67.4-18. Fixtures. Articles that were once personal property but has been so affixed to land or a
139 building that the law construes it to be part of the real estate.

140 67.4-19. Fraud. The intentional misrepresentation of a material fact in such a way as to harm or
141 take advantage of another person. In addition to false statements about a property, the concept of
142 fraud covers intentional concealment or nondisclosure of important facts.

143 67.4-20. (g) "Fiduciary" means a person required to act for the benefit of another
144 person on all matters within the scope of their relationship and by such a relationship
145 owes another duties of good faith, trust, confidence and candor. For the purposes of this
146 Law, both Brokers and salespersons are "Fiduciaries."

147 (h) "Improvements" means buildings, other structures, and associated infrastructure
148 attached to Real Property.

149 (i) "Individual Fee Land.—Land" means Real Property held in fee status by an individual
150 or group of individuals.

151 67.4-21. (j) "Individual Tribal Land" means Real Property.—Real property owned by
152 an Oneida Tribal member Member in fee status or held in trust for that member by the
153 United State of America for the benefit of a Tribal Member.

154 67.4-22. (k) "Individual Trust Land." means Individual Tribal Land held in trust by
155 the United States of America in trust for the benefit of an individual a Tribal
156 member Member.

157 67.4-23. Intestate. One who dies without having made a will; or property not disposed of by
158 will.

159 67.4-24. (l) "Judiciary.—The" means the judicial system that was established by
160 Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial
161 authorities and responsibilities of the Tribe.

162 67.4-25. Law of Agency. The body of law that governs the rights and duties of principal, agent
163 and third persons.

164 67.4-26. Mobile Home. A building which, when originally constructed, was prefabricated and
165 on wheels to allow movement from one location to another with minimal modifications
166 necessary to attach utilities. It is considered to be personal unless it is permanently affixed to the
167 land, at which point it is considered real property.

168 ~~67.4-27. Personal property or Personalty. All property that does not fit the definition of real~~
169 ~~property, and usually the characteristic of being “movable.”~~

170 ~~67.4-28. Plat Map. Map of a piece of property that may be a part of a larger parcel of real estate~~
171 ~~or may be composed of several smaller ones which the surveyor resurveys. This new map is~~
172 ~~called a Plat map, and it creates a new legal description which must be tied to the description on~~
173 ~~a Certified Survey Map(s), to be considered acceptable for transfer of property.~~

174 ~~67.4-29. (m) “Land Use License” means an agreement entered into by the Tribe~~
175 ~~authorizing a party the right to occupy and/or utilize a specified piece of Tribal Land for a~~
176 ~~specific purpose and a specific duration, which may require the Tribe to be compensated~~
177 ~~for such use.~~

178 ~~(n) “Leasehold Mortgage” means a mortgage, deed of trust, or other instrument that~~
179 ~~pledges a lessee’s leasehold interest as security for a debt or other obligation owed by the~~
180 ~~lessee to a lender or other mortgagee.~~

181 ~~(o) “Probate.—An” means an official authentication of a will, and/or official~~
182 ~~administration of an estate of a deceased person.~~

183 ~~67.4-30. (p) “Real Property” means land and anything growing on, attached to, or~~
184 ~~erected on the land, excluding anything that may be severed without injury to the land.~~

185 ~~(q) “Reservation.—That area” means all the property within the exterior boundaries as set~~
186 ~~out in the of the Reservation of the Oneida Tribe of Indians of Wisconsin, as created~~
187 ~~pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and that land purchased and held~~
188 ~~by the United States of America in trust for the Oneida Tribe of Indians of Wisconsin~~
189 ~~outside those exterior boundaries any lands added thereto pursuant to federal law.~~

190 ~~67.4-31. Salesperson. A person who receives a fee or commission to work on behalf of the~~
191 ~~broker, and must be licensed under this Law under certain circumstances.~~

192 ~~67.4-32. Subsurface Rights. The rights to natural resources lying below the earth’s surface.~~

193 ~~67.4-33. Sun Rights. A solar energy owner’s right to access to the sun.~~

194 ~~67.4-34. Surface Rights. The rights to use the surface of the earth within boundaries defined in~~
195 ~~a transfer of real property.~~

196 ~~67.4-35. Tribal (r) “Restricted Fee Land. Land held in fee by the Oneida Tribe.~~

197 ~~67.4-36. Tribal Property. Real property owned by the Oneida Tribe in fee or held for the Tribe~~
198 ~~by United States of America.~~

199 ~~67.4-37. Tribal Trust Land. Land held by the United States of America in trust for the benefit of~~
200 ~~the Oneida Tribe.~~

201 ~~67.4-38. Tribe. Oneida Tribe of Indians of Wisconsin. Also known as the Sovereign Oneida~~
202 ~~Nation in Wisconsin, and Onáyote² a-ká.~~

203

204 **67.5. Interests In Real Estate: Individual Or Tribal.**

205 ~~67.5-1. Fee Simple Absolute. The greatest interest of ownership or distribution in a parcel of~~
206 ~~land that it is possible to own i.e. no conditions. Sometimes simply designated as fee. Tribal~~
207 ~~individuals, non-tribal individuals and tribal government may hold fee Status” means an interest~~
208 ~~in land within the Oneida Reservation.~~

209 ~~67.5-2. Leasehold. The interest in fee or trust property that is qualified by some future~~
210 ~~determinant such as time, age, or an act/incident.~~

211 ~~67.5-3. Fee or Trust subject to a Condition. An interest Real Property which includes a~~
212 ~~proviso provision in the deed or will that upon the happening or failure to happen of a~~
213 ~~certain event, the title of the purchaser or devisee will be limited, enlarged, changed or~~
214 ~~terminated.~~

215 ~~67.5-4. Life Lease. A lease of requirements enacted by a Tribal~~
216 ~~Entity pursuant to the right~~ Administrative Rulemaking Law.

217 (t) “Title Status Report (TSR)” means a report issued by the Bureau of use
218 Indian Affairs after a title examination which shows the proper legal description of a tract of Tribal
219 Land; current ownership, including any applicable conditions, exceptions, restrictions or
220 encumbrances on records; and ~~occupancy of~~ whether the land is in unrestricted,
221 restricted, trust, or other status as indicated by the records in a Land Titles and Records
222 Office.

223 (u) “Tribal Entity” means a board, committee, commission or department of the Tribe.
224 For the purposes of this Law, the term “Entity” does not include the Oneida Business
225 Committee or the Judiciary.

226 (v) “Tribe” or “Tribal” means the Oneida Tribe of Indians of Wisconsin.

227 (w) “Tribal Fee or Trust Lands for the life of Land” means Tribal Land held in fee status
228 by the Tribe within the Reservation.

229 (x) “Tribal Member” means an individual ~~either Oneida tribal or non-tribal~~ who is an
230 enrolled member of the Tribe.

231 ~~67.5-5.~~ (y) “Tribal Land” means Tribal Fee Land and Tribal Trust Land.

232 (z) “Tribal Trust Land” means the surface estate of land or any interest therein held by
233 the United States of America in trust for the Oneida Tribe; land held by the Tribe subject
234 to federal restrictions against alienation or encumbrance; land reserved for federal
235 purposes; and/or land held by the United States in trust for the Tribe under Section 17 of
236 Indian the Indian Reorganization Act, 25 U.S.C §477, et. seq.

237 (aa) “Trust Asset and Accounting Management System (TAAMS)” means the Bureau of
238 Wisconsin, or for a member Indian Affairs system for maintaining and tracking land title
239 documents and all legal documents relating to land transactions.

240 67.5. General Provisions

241 67.5-1. Applicable Real Property. The provisions of this ~~tribe~~ Law extend to all Tribal Land and
242 Individual Tribal Land within the Reservation.

243 67.5-2. Tribal Land Base. Any transaction which adds Real Property to the Tribal Land base
244 must be administered through the Division of Land Management under the provisions of this
245 Law.

246 67.5-3. Sale of Tribal Land Prohibited. The sale of Tribal Land is specifically prohibited by this
247 Law, unless the intent of the transaction is the consolidation or partition of Tribal Trust Land
248 and/or Individual Trust Land.

249 ~~67.5-4.~~ 67.5-6. Life Use, or Estate. A claim or interest in individual trust property by a non-
250 tribal spouse, not amounting to ownership, and limited by a term of life of the person in whom
251 the right is vested.

252
253
254 New Land Assignments Prohibited. The Tribe may not acknowledge any new land
255 assignments. Further, in order to be eligible for a Tribal loan issued against a Real Property
256 interest held as a land assignment, the land assignment must first be converted to a residential
257 lease.

258 67.5-5. Wisconsin Real Property Law. The Tribe shall follow all applicable portions of the
259 Wisconsin Real Property Law when acquiring Individual Fee Land

260 67.5-6. No Waiver of Sovereign Immunity. Nothing in this Law may be construed as a waiver of
261 the Tribe’s sovereign immunity.

262
263 **67.6. – Holding ~~Of~~ Ownership.**
264 67.6-1. Interests in ~~land~~ Real Property by more than one (1) person may be held in the following
265 ways:

266 (a) ~~Joint tenancy~~ Tenancy with right of survivorship: ~~Each~~ the Right of Survivorship.
267 Pursuant to this ownership mechanism each owner has an equal, undivided interest in the
268 property. ~~As~~ Real Property. When an owner dies, ~~their~~ his/her share is divided among the
269 remaining owners, ~~so~~; the last living owner owns the entire property.

270 (1) Real Property owned by married persons is held under this mechanism unless
271 they have executed a marital property agreement specifically stating that the Real
272 Property in question is held as tenants in common.

273 (b) ~~Tenancy in common.~~ Each Common. Pursuant to this ownership mechanism each
274 owner has a percentage divided interest in the property. ~~As~~ Real Property. When an
275 owner dies, ~~that owner's~~ his/her interest is divided among his ~~or~~ /her devisees or heirs.
276 ~~Two or~~

277 (1) Real Property owned by more individuals holding property are tenants in common
278 unless:

279 (1) than one (1) person is owned under this mechanism unless a deed, transfer
280 document or marital property agreement specifically states the property Real
281 Property is held as joint tenants with rights of survivorship; ~~or~~

282 (2) a married couple holds the property without a marital property agreement that
283 specifically states the property is held as tenants in common.
284

285 **67.7. Legal Descriptions.**

286 67.7-1. The legal description for any ~~land~~ Real Property transferred under this Law ~~will~~ must be
287 derived from a Certified Survey Map (~~CSM~~) or Plat of Survey survey completed by a registered
288 Land Surveyor land surveyor according to currently accepted minimum standards for property
289 surveys. If the Plat of Survey changes the legal description of the ~~CSM~~ Certified Survey Map for
290 the same piece of property, the ~~CSM~~ Certified Survey Map's legal description will be used on
291 transfer documents along with the Plat of Survey survey description, which must be designated
292 as "Also Known ~~as~~ As ..." Section, Township, Range township, range and Fourth Principal
293 Meridian fourth principal meridian must be within all ~~tribal~~ Tribal legal descriptions.

294 67.7-2. Every land survey ~~shall~~ must be made in accordance with the county register of deeds'
295 records ~~of the County Register of Deeds~~ for fee land, and in accordance with the records of the
296 Oneida Division of Land ~~Management~~ Management's records for all trust lands Tribal Trust
297 Lands and Individual Trust Lands. The surveyor shall acquire data necessary to retrace record
298 title boundaries such as deeds, maps, certificates of title, Title Status Reports ~~from the Bureau of~~
299 Indian Affairs, Tribal Leases leases, Tribal Home Purchase Agreements home purchase
300 agreements, center line and other boundary line locations.

301 67.7-3. Legal ~~description~~ descriptions defining land boundaries ~~shall~~ must be complete providing
302 unequivocal identification of line or boundaries.

303 67.7-4. ~~In addition to Survey Map~~ All surveys prepared for the Tribe must comply with survey
304 requirements outlined in the Wisconsin Administrative Code, Chapter A-E7, ~~all surveys prepared~~
305 for the Oneida Tribe should and indicate setbacks, building locations and encroachments, as
306 applicable.

307 67.7-5. Legal descriptions ~~will~~must be used on transfer documents formalizing a purchase, real
308 estate sale, lease, foreclosure, ~~probate~~Probate transfer ~~to beneficiaries or,~~ trust acquisition and
309 ~~tribal~~Tribal resolutions ~~indicating legislative approval.~~

310 67.7-6. When real estate is listed for sale or lease to ~~tribal members~~Tribal Members, the address
311 is ~~considered an~~ adequate legal description of the ~~property~~Real Property.

313 67.8. Title Transfer.

314 67.8-1. ~~General. It is presumed that the intentions of parties to any real property transfer are to~~
315 ~~act in good faith. For this reason, this shall be liberally construed when faced with conflict or~~
316 ~~ambiguity in order to effectuate the intentions of the parties.~~

317 ~~67.8-2.~~Trust Acquisition. The Division of Land Management shall ~~use~~ only ~~those~~use title
318 companies duly registered with the Department of Interior and approved by the Division of Land
319 Management to update abstracts or provide ~~Title Insurance~~title insurance on ~~real property~~Real
320 Property scheduled for trust acquisition.

321 (a) Title ~~Companies~~companies must follow general guidelines provided by ~~the~~ federal
322 government in terms of form, content, period of search, destroyed or lost records and
323 ~~Abstracter's Certificate~~abstracter's certificate.

324 (b) When researching ~~Land~~land title ~~for Real Property~~ within the ~~reservation~~Reservation
325 which is being considered for trust acquisition, the ~~Title Company will~~title company must
326 be requested to search the title back to the original allottee, in order to assure that patents
327 or Indian ~~Deeds~~deeds were legally issued.

328 (c) Any valid liens or encumbrances shown by the ~~Commitment~~commitment for ~~Title~~
329 ~~Insurance~~title insurance must be eliminated before the ~~Title~~title is transferred into Trust.

330 (d) After land is in trust, both a title search of ~~County~~county records ~~is no longer~~
331 ~~acceptable.~~ and a Title Status ~~Reports~~Report requested by the Division of Land
332 ~~Management~~ from ~~Oneida Division of Land Management or~~ the Bureau of Indian Affairs
333 ~~shall be used~~are required to verify all valid encumbrances, if any, on the title. A

334 (1) For the purposes of this Section, a valid encumbrance is one that has been
335 preapproved, in writing, by the Division of Land Management based on a
336 standard operating procedure that is effective upon approval by the Land
337 Commission.

338 (e) Division of Land Management applications to convert Tribal Fee Land into Tribal
339 Trust Land must be accompanied by Land Commission resolution approving said
340 conversion.

341 67.8-3. ~~The Warranty Deed~~Deeds. A deed is the formal document used by the Division of Land
342 Management to transfer title from one party to another. ~~It shall not be considered valid unless it~~
343 ~~is in writing and:~~

344 (a) ~~Identifies~~ A valid deed must:

345 (1) Be in writing;

346 (2) Identify the grantor (seller) and grantee; (Buyer);

347 ~~(b) Provides~~3) Provide the legal description of the ~~land~~Real Property;

348 ~~(c) Identifies~~(4) Identify the interest conveyed, as well as any conditions,
349 reservations, exceptions, or rights of way attached to the interest;

350 ~~(d) Is~~5) Be signed by or on behalf of each of the grantors; (sellers);

351 ~~(e) Is~~6) Be signed by or on behalf of each spouse, of each of the grantors
352 (sellers), if applicable; and

353 ~~(f) Is~~7) Be delivered. to the grantee (Buyer).

354 ~~67.8-4. A Warranty Deed prepared for Trust Acquisition shall, in~~ (b) In addition to
355 ~~that the requirements~~ listed in Section 67.8-3; (a), a deed prepared for trust acquisition
356 must include the following:

357 ~~(a) 1)~~ The federal authority for Trust Acquisition; trust acquisition;

358 ~~(b) 2)~~ Any exceptions or exclusions from State the State's fees or other transfer
359 requirements;

360 ~~(e) 3)~~ The approximate acreage of the real property Real Property being
361 transferred to ~~Trust~~ trust; and

362 ~~(d) 4)~~ The authority and signature of the appropriate Department of Interior
363 official who accepts the real property Real Property into ~~Trust~~ trust.

364 ~~67.8-5. (c) A Warranty Deed~~ deed transferring fee simple title ~~shall~~ must be recorded in the
365 appropriate ~~Register~~ register of ~~Deeds~~ deeds office. ~~Once, provided that, once~~ the real
366 property Real Property is in trust, the ~~Title shall~~ title must be recorded with the Oneida
367 Division of Land Management and the ~~Aberdeen Title Plant for the United States~~
368 ~~Department of the Interior~~ Bureau of Indian Affairs Land Titles and Records Office.

369 67.8-6. ~~An~~ Involuntary Transfer of Title. All involuntary ~~Transfer~~ transfers of title require a
370 Judiciary hearing, and may occur in the following ways:

371 (a) Tribal Eminent Domain. Tribal eminent domain, is the right of the Tribal
372 ~~Government~~ government to acquire private land for public uses without the consent of
373 private owners. Public

374 (1) For the purposes of this Section, public uses include, but are not limited to,
375 environmental protection, streets, highways, sanitary sewers, public utility/sites,
376 waste treatment facilities and public housing. ~~Attempts must first be made to~~
377 ~~negotiate an agreeable taking by the Tribal Government; thence provide an offer~~
378 ~~to purchase based on a tribal appraisal of the property; and provide compensation~~
379 ~~for the taking. Provision for required hearing on the taking and appeals to the~~
380 ~~Judiciary can be found in the Judiciary's rules of procedure.~~

381 (2) Prior to exercising Tribal eminent domain, the Tribe must first attempt to
382 negotiate an agreeable taking by making an offer to purchase based on a Tribal
383 appraisal of the Real Property and providing compensation for the taking.

384 (A) For the purposes of this Section, a Tribal appraisal means the Tribe's
385 process for estimating a piece of Real Property's value.

386 (3) The Tribe's exercise of Tribal eminent domain may be appealed to the
387 Judiciary.

388 (b) Foreclosure. Foreclosures may occur ~~whenever a tribal member~~ subject to the
389 Mortgage and Foreclosure Law when a Tribal Member ceases payment on a ~~mortgage for~~
390 ~~leasehold improvements, a tribal~~ Leasehold Mortgage Improvements, a Tribal home
391 purchase agreement, or home improvement loan. ~~If the loan is through a public lending~~
392 ~~institution the Tribe may choose to pursue its option to purchase the loan and finalize the~~
393 ~~foreclosure through the Division of Land Management. A decision to foreclose shall be~~
394 ~~handled as a Contested Case according to the Oneida Nation Administrative Procedures~~
395 ~~Act, Section 10. Contested Cases and 11. Appellate Review. Also see 14-5 of this~~
396 ~~Law~~ All foreclosures must be filed with the Judiciary and may be appealed to the same.

397 (c) ~~The Tribal Land Consolidation. Section 207 of the~~ Indian Land Consolidation Act
398 ~~was passed by Congress and became effective January 12, 1983 (Pub.L. No. 97-459, 96~~
399 ~~Stat. 2515, and amended on October 30, 1984 by Pub.L. No. 98-608, 98 Stat. 3171).~~
400 ~~Section 207 of said Act~~ is incorporated into this Law; which provides ~~that if it is~~

401 determined that the decedent's ownership in a given parcel of land is 2 percent or less of
402 the total acreage, and that interest is incapable of earning \$100.00 in any one of the five
403 (5) years from the date of the decedent's death, thence that ownership interest shall a
404 mechanism for Real Property within the Reservation to escheat, or pass, to the Tribe
405 having jurisdiction over said land, for just compensation, unless the heirs can prove by
406 substantial evidence that the above determination was wrong. This determination will be
407 made through Probate proceedings in 67.9 of this Law.

408 (d) Upon (1) Pursuant to Section 207 of the Indian Land Consolidation Act, an
409 ownership interest in Real Property escheats, or passes, to the Tribe receiving
410 majority consent from, provided that it must provide just compensation for the
411 interest, if:

412 (A) The Real Property is within the Reservation boundaries;

413 (B) The decedent's ownership in the given parcel of land is two (2) percent
414 or less of the total acreage; and

415 (C) The interest is incapable of earning one hundred dollars (\$100.00) in
416 any one (1) of the five (5) years immediately following the decedent's
417 death.

418 (2) A decedent's heirs, the Land Commission may approve may appeal a Tribal
419 Land consolidation under this Section to the Judiciary.

420 (3) Tribal Land consolidation is subject to the requirements of the Probate Law.

421 (d) Transferring Interests Inherited by Non-Indians. If the owner of an interest of Real
422 Property located within the Reservation which is held in trust or Restricted Fee Status
423 devises such interest to a non-Tribal Member, the Tribe may acquire the said interest by
424 paying the fair market value of the interest determined as of the date of the decedent's
425 death. The said transfer is effective upon receipt of an Order Transferring Inherited
426 Interests under from the authority of Judiciary pursuant to Section 205 of the Indian Land
427 Consolidation Act provided that none of the Indians owning an undivided interest is
428 willing to purchase or match the tribes offer.

429 (1) An Order Transferring Inherited Interests may not be granted if:

430 (A) While the decedent's estate is pending, the non-Indian devisee
431 denounces his or her interest in favor of an Indian person;

432 (B) The interest is part of a family farm that is devised to a member of the
433 Immediate Family of the decedent, provided that such a restriction must be
434 recorded as part of the deed relating to the interest involved; or

435 (C) The devisee agrees in writing that the Tribe may acquire the interest
436 for fair market value only if the interest is offered for sale to a person or
437 entity that is not a member of the Immediate Family of the owner of the
438 interest.

439 (e) An Involuntary Transfer of Title cannot occur without a hearing in front of the Land
440 Commission, or its designated subcommittee, under procedures of the Oneida Nation
441 Administrative Procedures Act, Section 9. Declaratory Ruling, or Section 10. Contested
442 Cases.

443 (f) Easements for Landlocked Properties. A The Oneida Land Commission shall develop
444 a procedure for handling a request for an easement will be developed and approved by
445 the Land Commission deciding on requests for Easements for landlocked properties.

446 67.8-7. ~~Records.—All documents pertaining to trust property within the The Oneida Reservation~~
447 ~~shall be recorded in the United States of America Aberdeen Title Plant as well as Law Office~~
448 ~~shall work with~~ the Division of Land Management.—See also Section 12.

449 67.8-8. All Individual and Tribal lands purchased in fee shall be transferred to Trust held by the
450 United States of America through procedures promulgated by the Division of Land Management,
451 and supported by waivers approved by the Secretary of Interior or designate.

452
453 **67.9. Disposition Of Estates Of Deceased Tribal Members.**

454 67.9-1. The purpose of this section is to formalize laws to handle the disposition of deceased
455 tribal members' trust property, with or without a will. The intent of this section is to provide
456 procedures which make it possible for equitable and fair decisions to be made for the surviving
457 family, as well as promoting ongoing peace and harmony within the community.

458 (a) Tribal members holding fee land within the reservation may use the laws and
459 procedures of the State of Wisconsin or those of this Law.

460 (b) to initiate the process for transferring all Tribal members holding trust land within the
461 reservation shall use the laws and procedures of this Section.

462 67.9-2. Non-members of The Oneida Tribe and non-citizens of the United States cannot acquire
463 Trust land through inheritance. Where interests are specifically devised to individuals ineligible
464 to inherit the following options are provided:

465 (a) Sale of interest to the Oneida Tribe or an eligible heir for its fair market value;

466 (b) Acquire a life estate in the property if an ineligible spouse and/or minor child.

467 67.9-3. Interests of Heirs who cannot be found will be sold to the Oneida Tribe at fair market
468 value, or to an eligible heir, and the money returned to the estate for distribution.

469 67.9-4. In the absence of any heir or devisee, interests will escheat to the Oneida Tribe of Indians
470 of Wisconsin.

471 67.9-5. Personal property which does not come under the guidelines of this Law, and may be
472 distributed at the traditional ten day meal by family members, include:

473 (a) Clothing, furnishings, jewelry, and personal effects of the deceased not valued at more
474 than \$100 per item.

475 (b) Ceremonial clothing or artifacts, including eagle feathers, beadwork, dance sticks,
476 flutes, drums, rattles, blankets, baskets, pottery, medicines, and animal skins.

477 67.9-6. The Fee Land Commission, or its designated sub-committee, shall make a declaratory
478 ruling by authority of the Administrative Procedures Act, Section 9, in any case brought before
479 them by any person claiming to be an heir of the deceased and requesting any of the following
480 determinations:

481
482 67.(a) Heirs of Oneida members who die without a will (intestate) and possessed of fee or
483 trust property coming under the authority of the Oneida Tribe of Indians of Wisconsin;

484 (b) Approve or disapprove wills of deceased Oneida members disposing of trust property;

485 (c) Accept or reject full or partial renunciations of interest;

486 (d) Allow or disallow creditors' claims against estates of deceased Oneida members;

487 (e) Decree the distribution of all assets of a deceased Oneida member.

488 67.9-7. The Staff Attorney for the Division of Land Management will prepare a file for each
489 probate hearing within 30 days of receipt of a Request for Probate Hearing from anyone claiming
490 to be an heir of the deceased. Extensions to this 30 day requirement shall be requested from the
491 Land Commission when proven necessary to complete the file. Relatives and agencies will be
492 asked to cooperate in developing a complete probate file containing:

- 493 ~~(a) Family history information,~~
- 494 ~~(b) Death certificate,~~
- 495 ~~(c) Personal and Real Property Inventory,~~
- 496 ~~(d) BIA-IM Account Report,~~
- 497 ~~(e) Creditor Claims,~~
- 498 ~~(f) Original will, if any,~~
- 499 ~~(g) Names, addresses and phone numbers of all parties in interest.~~

500 **9. Leasing of Real Property.**

501 ~~67.9-8. Definitions As Used In This Section~~

- 502 ~~(a) Children And Issue: Includes adopted children and children of unwed parents where~~
- 503 ~~paternity has been acknowledged, or established by court decree. This does not include~~
- 504 ~~non-adopted step children.~~
- 505 ~~(b) Parties in interest: This includes:~~
 - 506 ~~(1) Heirs of the decedent~~
 - 507 ~~(2) A beneficiary named in any document offered for probate, such as the will of~~
 - 508 ~~the decedent, land lease or sale agreement for real estate.~~
 - 509 ~~(3) A person named as administrator or personal representative in any document~~
 - 510 ~~offered for probate.~~
 - 511 ~~(4) Additional persons as the Land Commission may by order include who may be~~
 - 512 ~~affected by the actions of the Land Commission, or its designated sub-committee,~~
 - 513 ~~whether by receipt of or denial of any property which is a part of the action.~~
- 514 ~~(c) Heirs: Any person who is entitled under Tribal law to an interest in the property of a~~
- 515 ~~decedent.~~

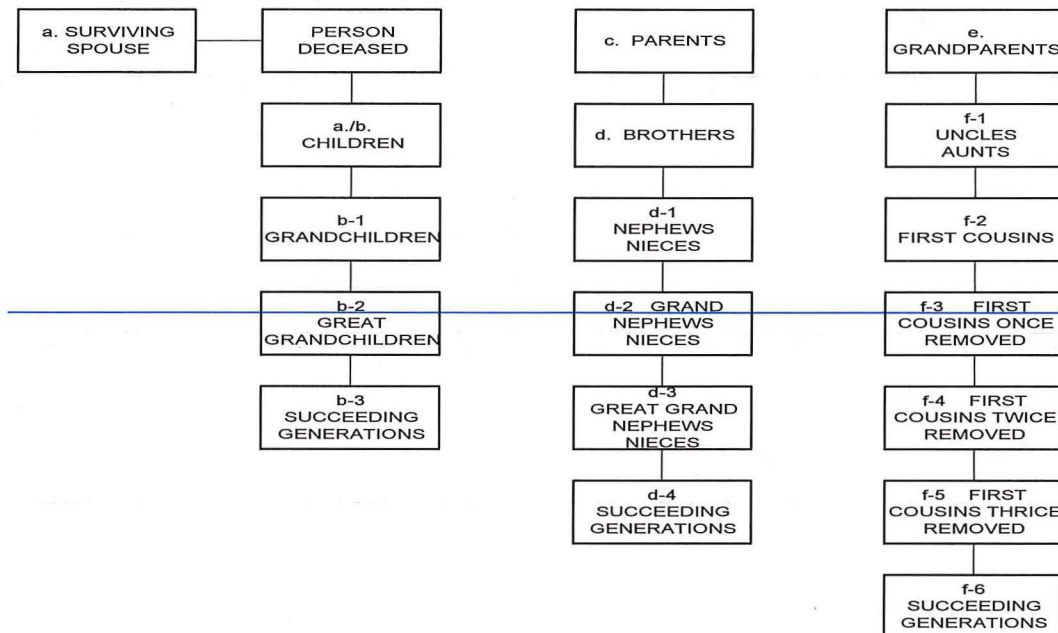
516 ~~67.9-9. Parties in interest. The net estate of a decedent, not disposed of by will, passes to his/her~~

517 ~~surviving heirs or Parties in interest as follows:~~

- 518 ~~(a) To the spouse:~~
 - 519 ~~(1) All Real Property.~~
 - 520 ~~(2) All other than Real Property if there are no surviving children of the decedent.~~
 - 521 ~~(3) 1/2 of other than Real Property of the decedent's estate if there are surviving~~
 - 522 ~~children of the decedent, or children of any deceased child of the decedent~~
 - 523 ~~(grandchildren) who take by right of representation.~~
- 524 ~~(b) To Surviving Children and children of any deceased child of the decedent by rights of~~
- 525 ~~representation;~~
 - 526 ~~(1) All of the estate if there is no surviving spouse, divided equally to all in the~~
 - 527 ~~same degree of kinship to the decedent. Surviving children of a deceased child of~~
 - 528 ~~the decedent will divide their parent's share.~~
- 529 ~~(c) All of the estate to the parents, equally divided, if no surviving spouse, children or~~
- 530 ~~children taking by right of representation.~~
- 531 ~~(d) All of the estate to the brothers and sisters and children of deceased brothers or sisters~~
- 532 ~~by representation, divided equally, If no surviving spouse, children, or parents.~~
- 533 ~~(e) All of the estate to the grandparents of the deceased divided equally, if no surviving~~
- 534 ~~spouse, children parents or brothers and sisters.~~
- 535 ~~(f) All of the estate divided equally to lineal descendants of the grandparents of the~~
- 536 ~~deceased in the same order as (b) thru (e) if no surviving spouse, children, parents~~
- 537 ~~brothers/sisters, or grandparents of the decedent.~~

538

~~(g) Diagram of Intestate Succession as outlined in (a) thru (f) in Figure 1.~~



539

~~(h) Any 2% interests, or less, in land, as defined in 8-6(c) of this Law.~~

540

~~67.9 10. When the Probate File is complete, it will be placed on the agenda for review by the Land Commission, who will first review it for sufficiency. If the Land Commission determines the file is incomplete, it is sent back to the Staff Attorney with further instructions. If the probate file is determined to be complete, a hearing shall be scheduled at a time when most, if not all, parties can attend.~~

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~~(a) Notice: All parties in interest will be sent a certified personal notice of the hearing to their current or last known address. The hearing notice will also be posted at NORBERT HILL CENTER, LITTLE BEAR DEVELOPMENT CENTER and other public places within the reservation, and published in at least two issues of the Kalihwisaks, the Milwaukee Sentinel/Journal, a Green Bay Paper and an Appleton paper. The notice will include time and place for hearing, agenda, approximate length of hearing and contact person. This notice will be provided at least 10 days before the hearing takes place.~~

551

552

~~(b) The hearing will generally adhere to the following format:~~

553

~~(1) Rules for an open, nonjudgmental discussion shall be presented and accepted.~~

554

~~(2) Probate file is reviewed and data added or corrected based on consensus of those present.~~

555

~~(3) Ample time is provided for full discussion of the process, presentation of additional data for the file, and defining of problems or disputes to be entered into the record.~~

556

~~(4) All problems or disputes shall be settled in this hearing, with all parties in interest present and assisting in this resolution. This includes recommendations for clear partition of any real property held in undivided interest, and full discussion of creditor claims. This hearing shall be continued to another date only if unpredicted circumstances or unavailable information impedes the progress of resolution.~~

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~~(5) When all problems, disputes and legal issues of the case have been resolved to the satisfaction of all parties in interest, the hearing body will issue its Final or~~

564

566 ~~Declaratory Ruling to the Director of Land Management, who will notify the Land~~
567 ~~Commission and all parties involved in the hearing. This Final Ruling takes effect~~
568 ~~60 days after mailings.~~

569 ~~67.9-11. A party to a probate hearing may seek a rehearing of any of the above determinations~~
570 ~~listed in 9-3 upon provision of a written request to the Director of the Division of Land~~
571 ~~Management within 60 days after the Declaratory Ruling is issued. It is the responsibility of the~~
572 ~~aggrieved party to make certain that adequate documentation necessitating a rehearing is attached~~
573 ~~to the request.~~

574 ~~(a) This request must include affidavits, witness list, summary of testimony and other~~
575 ~~support documents which would provide a justifiable reason why any new information~~
576 ~~was not available at the original hearing.~~

577 ~~(b) If basis for rehearing is alleged procedural irregularities, the request shall include~~
578 ~~complete documentation of these irregularities.~~

579 ~~(c) If basis for rehearing is the constitutionality of the Law or its procedures, a legal brief~~
580 ~~shall be attached to the request which clearly establishes the legal rationale for this claim.~~

581 ~~(d) If basis for rehearing is that the determination is clearly erroneous, arbitrary and/or~~
582 ~~capricious, a clear statement or legal brief summarizing the party's rationale for believing~~
583 ~~this to be true shall be attached to the request.~~

584 ~~67.9-12. The Director of Land Management will place the petition for rehearing on the first~~
585 ~~agenda of the Land Commission following the receipt of the written request.~~

586 ~~(a) The Land Commission may deny a rehearing if there is insufficient grounds for the~~
587 ~~petition, or if the petition is not filed in a timely fashion.~~

588 ~~(b) The Land Commission may order a rehearing based on the merit of the petition. The~~
589 ~~petition and supporting papers are then sent to all participants of the first hearing along~~
590 ~~with the date for the rehearing.~~

591 ~~(c) If a rehearing is ordered, the Land Commission will adhere to the same notice~~
592 ~~requirements as in the first hearing. In addition, the hearing body should be composed of~~
593 ~~the same individuals responsible for the first hearing. Based on the information presented~~
594 ~~at the rehearing, the hearing body may adhere to the former Ruling, modify or vacate it, or~~
595 ~~make such further determinations that are warranted.~~

596 ~~67.9-13. Any Declaratory Ruling given under this Section may be appealed to the Judiciary~~
597 ~~within 30 days from the date of the Ruling. The Ruling is sent to the Parties in interest with same~~
598 ~~documentation outlined in 9-6.~~

599 ~~67.9-14. A party may petition the Judiciary to reopen the case within three years after the~~
600 ~~Declaratory Ruling has been mailed out if they can prove all of the following:~~

601 ~~(a) They were not a participant in the first hearing;~~

602 ~~(b) They were completely unaware that the first probate hearing occurred and they have~~
603 ~~proof that they were not duly noticed; and~~

604 ~~(c) They have rights which were erroneously left out of the first probate hearing.~~

605 ~~67.9-15. After looking at the record of the first hearing, the Judiciary may rule that the Petition~~
606 ~~To Reopen is not sufficient, or it may send an order to the Land Commission to provide a second~~
607 ~~hearing based on the evidence provided in the Petition.~~

608 ~~67.9-16. All probate Declaratory Rulings of the Land Commission or Judgments of the Judiciary~~
609 ~~shall be recorded in the Division of Land Management.~~

610 ~~(a) If fee land is part of the Ruling, it shall also be recorded at the County Register of~~
611 ~~Deeds.~~

612 (b) If trust land is part of the Ruling, it shall also be recorded at the Department of Interior
613 Aberdeen Title Plant.

614
615 **67.10. Real Estate Trust Accounts.**

616 ~~67.10-1. A property trust account or escrow account shall be established by the Division of Land~~
617 ~~Management to deposit money or property being held for the following purposes:~~

- 618 (a) ~~To ensure receipt of mortgage satisfaction from seller;~~
- 619 (b) ~~Tax, insurance and utility payments held in escrow;~~
- 620 (c) ~~Security deposits on rental property;~~
- 621 (d) ~~Administrative fee;~~
- 622 (e) ~~Earnest money;~~
- 623 (f) ~~Any other receipts pertaining to real property transfer.~~

624 ~~67.10-2. Division of Land Management Staff shall deposit all funds received within 48 hours.~~

625 ~~67.10-3. The name Real Estate Trust Account and the Division of Land Management's name~~
626 ~~shall appear on all checks, share drafts or drafts from this account.~~

627 ~~67.10-4. Within 10 days of opening or closing the account, the Division of Land Management~~
628 ~~shall notify the tribe's Internal Auditor of the name and number of the account, person(s)~~
629 ~~authorized to sign trust account checks and the name of the depository institution.~~

630 ~~67.10-5. Receipt of earnest money shall be written on the relevant document pertaining to the~~
631 ~~transaction.~~

632
633 **67.11. Leasing Of Real Property.**

634 ~~67.11-1. All leasing of tribal land shall be processed in accordance with the Tribe's Leasing law.~~

635
636 **67.12. Records.**

637 ~~67.12-1. Purpose. The purpose of recording is to provide evidence of activities that effect land~~
638 ~~title; preserve a record of the title document; and give constructive notice of changes to the title.~~

639 ~~67.12-2. Types Of Record. The Division of Land Management shall develop a system for timely~~
640 ~~recording of Oneida Reservation title documents, including the following:~~

- 641 (a) ~~Deeds~~
- 642 (b) ~~Probate orders~~
- 643 (c) ~~Mortgages and other valid liens~~
- 644 (d) ~~Easements, covenants, restrictions~~
- 645 (e) ~~Certified Survey Maps and Plats of survey~~
- 646 (f) ~~Patents~~
- 647 (g) ~~Declarations of Involuntary Transfer or Taking~~
- 648 (h) ~~Satisfactions~~
- 649 (i) ~~Leases~~
- 650 (j) ~~Contracts~~
- 651 (k) ~~Home Purchase Agreements~~
- 652 (l) ~~Correction of Title defects~~

653 ~~67.12-3. Recordable Documents. The original, a signed duplicate, or certified copy of the title~~
654 ~~document listed above shall be submitted for recording.~~

655 ~~67.12-4. Accessibility. It is the policy of the Division of Land Management to allow access to~~
656 ~~land records and title documents unless such access would violate the Privacy Act (5 U.S.C.~~
657 ~~552a).~~

658 ~~67.12-5. Certification. Upon request, the Legal Services office will conduct a title examination~~
659 ~~of a tract of land by a qualified title examiner and provide a title status report to those persons~~
660 ~~authorized by law to receive such information, along with certification of these findings by the~~
661 ~~staff attorney.~~

662 ~~67.12-6. Tribal Seal. The Land Commission is empowered to have made and provided to the~~
663 ~~Division of Land Management the seal of the Oneida Tribe to be used to authenticate documents~~
664 ~~which are certified by the staff attorney.~~

665
666 **67.13. Real Estate Licensing.**

667 ~~67.13-1. General. Any person engaged in the business of buying, selling, advertising, listing or~~
668 ~~leasing tribal property shall be required to hold a Tribal Property License. A license requirement~~
669 ~~is established in order to protect the tribe and its members from fraud, dishonesty or~~
670 ~~incompetence in the negotiation and transfer of real property.~~

671 ~~67.13-2. Who Must Be Licensed.~~

672 ~~(a) Tribal Property Brokers. A Tribal Property Broker is defined as any person who has~~
673 ~~training in all aspects of real property, and acts for another person or the tribe to perform~~
674 ~~any of the following real property duties:~~

- 675 ~~(1) selling;~~
- 676 ~~(2) listing;~~
- 677 ~~(3) buying;~~
- 678 ~~(4) leasing;~~
- 679 ~~(5) renting; _____~~
- 680 ~~(6) exchanging;~~
- 681 ~~(7) negotiating any of above activities.~~

682 ~~(b) Salespersons. A Tribal Property Salesperson is defined as any person who assists a~~
683 ~~Broker in accomplishing any of the above real property duties, and has been certified to~~
684 ~~have received the level of training outlined in this Law.~~

685 ~~(c) Apprentices. Any person desiring to act as an tribal property salesperson shall file~~
686 ~~with the Division of Land Management an application for a license. A GED, HSED or~~
687 ~~high school diploma is required, except for those who write and pass a preliminary~~
688 ~~examination covering general knowledge including reading, writing, arithmetic and~~
689 ~~general real estate terminology.~~

690 ~~67.13-3. Exceptions. This Section does not apply to the following:~~

- 691 ~~(a) persons who perform real property duties on their own property;~~
- 692 ~~(b) receivers, trustees, administrators, executors, guardians or persons appointed by or~~
693 ~~acting under the judgment or order of any judicial system;~~
- 694 ~~(c) tribal public officers while performing their official duties;~~
- 695 ~~(d) banks, savings and loan associations and other designated financial institutions when~~
696 ~~transacting business within the scope of their corporate powers as provided by law;~~
- 697 ~~(e) any licensed attorney who, incidental to the general practice of law, negotiates loans~~
698 ~~secured by real estate mortgages or encumbrances or transfers of real estate;~~
- 699 ~~(f) employees, such as janitors, custodians or other employed by the tribe who show~~
700 ~~property or accept lease applications as an incidental part of their duties.~~
- 701 ~~(g) persons who list, sell, or transfer real property for a cemetery association of a church,~~
702 ~~tribal program or other nonprofit organization.~~

703 ~~67.13-4. Licensing Procedure~~

704 ~~(a) Education Requirements. Conference seminars, courses at accredited institutions, and~~
705 ~~Oneida Career Center classes will be accepted as proof of the hours of education received~~
706 ~~by an applicant.~~

707 ~~(1) Each applicant for a salesperson's license must submit to the Division of Land~~
708 ~~Management, proof of attendance at 45 classroom hours of educational programs~~
709 ~~dealing with State, Federal and Tribal transfer of Real Property. At least 25~~
710 ~~classroom hours shall cover Tribal and Federal real property law.~~

711 ~~(2) Each applicant for a broker's license must submit to the Division of Land~~
712 ~~Management, proof of attendance at 90 classroom hours of education programs~~
713 ~~addressing State, Federal and Tribal transfer of Real Property.~~

714 ~~(b) Experience Requirements. Each applicant for a tribal broker's license must submit to~~
715 ~~the Division of Land Management, proof of at least one year of experience as a real~~
716 ~~property salesperson, or as a broker in another jurisdiction.~~

717 ~~(c) Examination. The Licensing Examination for tribal brokers and salespeople shall be~~
718 ~~administered through the Oneida Career Center.~~

719 ~~(1) Land Commission will create a test which will contain the following materials:~~

- 720 ~~(A) 50% Tribal Law~~
- 721 ~~(B) 30% Federal Law~~
- 722 ~~(C) 20% Wisconsin Law~~

723 ~~(2) A score of 75% or better on each portion of the examination is required to~~
724 ~~pass. If an applicant fails any of the three portions of the exam, that applicant will~~
725 ~~have six opportunities to retake the failed portion within the following six months.~~
726 ~~If that applicant cannot pass the failed portion within the following six months, he~~
727 ~~or she must retake the entire exam to qualify for a license.~~

728 ~~(d) Fees. The following fees are applicable to tribal licensees. The Land Commission~~
729 ~~will establish an equitable fee schedule for the following:~~

- 730 ~~(1) issuance of a tribal salesperson or broker license~~
- 731 ~~(2) annual renewal fee for a tribal salesperson or broker license~~
- 732 ~~(3) late penalty for filing within 30 days of expiration~~
- 733 ~~(4) late penalty for filing within year of expiration~~
- 734 ~~(5) Test fee~~

735 ~~(e) Licensing. An applicant who has passed the appropriate license examination and has~~
736 ~~complied with the necessary requirements will be granted a license by the Oneida Land~~
737 ~~Commission. The license authorizes the licensee to engage in the activities of a tribal real~~
738 ~~property broker or salesperson as described in this Law. All licenses shall show the name~~
739 ~~and business address of the licensee.~~

740 ~~67.13-5. Rules Of Responsibility~~

741 ~~(a) The intent of this section is to establish minimum standards of conduct for real~~
742 ~~property licensees and to define that conduct which may result in Land Commission action~~
743 ~~to limit, suspend or revoke the license of a real property broker, salesperson or apprentice,~~
744 ~~or impose a fine.~~

745 ~~(b) Violations of rules in this section may demonstrate that the licensee is incompetent, or~~
746 ~~has engaged in improper, fraudulent or dishonest dealings.~~

747 ~~(1) A licensee has an obligation to treat all parties to a transaction fairly.~~

748 ~~(2) In order to comply with Federal and Tribal law, licensees shall not~~
749 ~~discriminate against, nor deny equal services to, nor be a party to any plan or~~
750 ~~agreement to discriminate against a person because of sex, race, color, handicap,~~

751 ~~religion, national origin, sex or marital status of the person maintaining a~~
752 ~~household, lawful source of income, sexual orientation, age or ancestry.~~

753 ~~(3) Licensees shall not provide services which the licensee is not competent to~~
754 ~~provide unless the licensee engages the assistance of one who is competent.~~

755 ~~(4) Licensees shall be knowledgeable regarding laws, public policies and current~~
756 ~~market conditions on real estate matters and assist, guide and advise the buying~~
757 ~~and selling public based upon these factors.~~

758 ~~(5) Licensees shall not advertise in a matter which is false, deceptive, or~~
759 ~~misleading.~~

760 ~~(6) Licensees shall not personally accept any commission, rebate, or profit from~~
761 ~~any of their real property dealings.~~

762 ~~(7) Licensees shall not engage in activities that constitute the unauthorized~~
763 ~~practice of law.~~

764 ~~(8) Licensees shall not discourage any person from retaining an attorney.~~

765 ~~(9) Licensees shall not exaggerate, misrepresent or conceal material facts in the~~
766 ~~practice of real estate.~~

767 ~~(10) Licensees shall not knowingly transmit false information.~~

768 ~~(11) No licensee shall draft or use any document which the licensee knows falsely~~
769 ~~portrays an interest in real estate.~~

770 ~~(12) Licensee shall not disclose any of the terms of one prospective buyer's offer~~
771 ~~to purchase to any other prospective buyer.~~

772 ~~(13) Licensee shall not issue checks upon trust accounts which contain insufficient~~
773 ~~funds.~~

774 ~~(14) Licensees shall notify the Division of Land Management if they are convicted~~
775 ~~of a crime, except motor vehicle offenses, so that a determination can be made~~
776 ~~whether the circumstances of the crime are substantially related to the practice of a~~
777 ~~tribal real property broker or salesperson.~~

778 ~~(15) Licensees shall not render services while the ability of the licensee to~~
779 ~~competently perform duties is impaired by mental or emotional disorder, drugs or~~
780 ~~alcohol.~~

781 ~~(16) Licensee shall not enter into overlapping agreements that could be construed~~
782 ~~as dual agency.~~

783 ~~67.13-6. Penalties For Violation Of This Law~~

784 ~~(a) Fines for minor infractions may be imposed by the Land Commission for any amount~~
785 ~~up to \$50.00. Minor infractions may include the first three infractions of the above listed~~
786 ~~offenses, or others as defined by the Land Commission.~~

787 ~~(b) The Land Commission shall provide a fair hearing, as per Oneida Nation~~
788 ~~Administrative Procedure Act, Section 10. Contested Cases, for any person alleged to~~
789 ~~have violated this section, before a penalty is ordered.~~

790 ~~(c) Major infractions of this section may lead to an action to limit, suspend or revoke the~~
791 ~~license of the defendant; disposition of a fine for any amount up to \$500; and/or penalties~~
792 ~~and judgments authorized by the Oneida Administrative Procedures Act Section 10(e).~~

793 ~~67.13-7. Licensing Fee For Non-tribal Brokers. The Division of Land Management is~~
794 ~~empowered to develop a licensing fee schedule and collection procedures for all brokers who~~
795 ~~enter a consensual agreement to sell property to the Oneida tribe and are not licensed by this Law.~~
796 ~~These fees will be used for maintenance of services and management of Real Property within the~~
797 ~~authority of this Law.~~

- 798
799 ~~67.14. Real Estate Financing.~~
800 ~~67.14 1. The goal of tribal loan programs is to maintain and improve the standard of living for~~
801 ~~tribal members, while protecting and expanding the Tribal Land base.~~
802 ~~67.14 2. Consistent with available funds, the Division of Land Management shall provide loan~~
803 ~~programs for the following purposes:~~
804 ~~(a) Financing the purchase or down payment of existing homes and lands,~~
805 ~~(b) Construction of new homes,~~
806 ~~(c) Repair and improvement to existing homes,~~
807 ~~(d) Refinancing existing mortgages,~~
808 ~~(e) Purchasing or refinancing mobile homes,~~
809 ~~(f) Consolidation of Loans, and~~
810 ~~(g) Real Estate Tax Arrearage.~~
811 ~~67.14 3. Eligibility Requirements For All Loans:~~
812 ~~(a) All applicants must be 21 years of age.~~
813 ~~(b) Applicant(s) must be an enrolled member of the Oneida Tribe.~~
814 ~~(c) Financed property must be located within the boundaries of the Oneida Reservation.~~
815 ~~(d) Applicants must have an acceptable credit rating.~~
816 ~~67.14 4. All loan programs are provided only to tribal members in order to respond to the Oneida~~
817 ~~Tribe's legislative purpose of expanding and maintaining tribal jurisdiction over all land within~~
818 ~~the boundaries of the Oneida Reservation, while fulfilling basic membership needs for adequate~~
819 ~~housing.~~
820 ~~(a) The applicant for any loan must list one to three Oneida Tribal members who will~~
821 ~~inherit any interest in Real Property mortgaged by a Tribal loan program, upon death of~~
822 ~~the applicant.~~
823 ~~(b) If the spouse of an applicant is a non-tribal member, he/she may continue to pay off~~
824 ~~the loan, as long as he/she agrees to list three tribal beneficiaries in case of death. Once~~
825 ~~the loan is satisfied, the designation of beneficiaries to the mortgaged interest in fee~~
826 ~~property will lapse.~~
827 ~~(c) If the applicant and non-tribal spouse commence divorce proceedings, the Division of~~
828 ~~Land Management may~~
829 ~~(1) refinance the enrolled member's loan balance so he/she may secure the entire~~
830 ~~property,~~
831 ~~(2) provide an offer to purchase the entire property and pay off liens,~~
832 ~~(3) consider some other financial agreement that would assist the tribal applicant~~
833 ~~in retaining property within the boundaries of the reservation.~~
834 ~~(d) A non-tribal spouse shall sign an affidavit at the time that a tribal loan is accepted~~
835 ~~indicating he/she is informed of this regulation and consent to the tribal spouse receiving a~~
836 ~~mortgage against homestead property, held in fee, with this condition attached.~~
837 ~~67.14 5. Foreclosures~~
838 ~~(a) Default. Any Tribal Loan that is in default for three consecutive months is subject to~~
839 ~~foreclosure proceedings, provided that a Notice of Arrears, showing the increasing~~
840 ~~amounts payable to cure the default, has been sent to the loan holder(s) each month by the~~
841 ~~Loan Officer.~~
842 ~~(b) Decision To Foreclose.~~

843 ~~(1) After three notices, the Loan Officer will provide the Director of Land~~
844 ~~Management, and the Loan Committee, all documents and information necessary~~
845 ~~to determine whether or not foreclosure proceedings should be started.~~

846 ~~(2) Any recommendation to foreclose will be put on the next Land Commission~~
847 ~~agenda for concurrence, scheduling of a hearing, and designation of a three person~~
848 ~~hearing body.~~

849 ~~(3) Each member of the three person hearing body will receive \$150 for being~~
850 ~~present at the scheduled hearing, reviewing all information presented, and~~
851 ~~providing a final decision, opinion, order or report based on their deliberations,~~
852 ~~except for employees of the Oneida Tribe who have permission to be a part of the~~
853 ~~hearing body as part of their job.~~

854 ~~(4) The Director of Land Management will make provisions for necessary clerical~~
855 ~~support for the three person hearing body.~~

856
857 **67.15. Tribal Real Estate Taxes.**

858 ~~67.15-1. Regulations for the promulgation of a Real Estate Tax Code will be developed by the~~
859 ~~Division of Land Management by October 1, 1996, in order to provide for increasing costs for~~
860 ~~services provided to occupants of tribal land, such as environmental services, public roads, fire~~
861 ~~protection, recycling, garbage pick-up, water and sewer, transportation, traffic control, loans, and~~
862 ~~management of real property.~~

863
864 **67.16. Organization.**

865 **67.16-1. General**

866 ~~(a) The Comprehensive Housing Division of Land Management shall administer all~~
867 ~~transactions that come under this Law and process all leasing of Tribal Land.~~

868 ~~(b) All tribal agencies will process any type of real property acquisition, including~~
869 ~~donations, through (a) For the purposes of this Law, leasing refers to all leases made~~
870 ~~pursuant to the Leasing Law and all rental agreements made pursuant to the Landlord-~~
871 ~~Tenant Law.~~

872 ~~(1) The Leasing Law definition of Tribal Land does not include Tribal Fee Land,~~
873 ~~however pursuant to this Law, leases of Tribal Fee Land lasting longer than one~~
874 ~~(1) year that are not made as part of the homeownership program which uses~~
875 ~~federal funding must be administered and processed using the Leasing Law.~~

876
877 **67.10. Records.**

878 ~~67.10-1. Purpose. The Division of Land Management shall oversee the administration of the~~
879 ~~Oneida Nation Register of Deeds which shall accept and record documents related to Real~~
880 ~~Property located within the Reservation.~~

881 ~~67.10-2. Types of Records. The Oneida Nation Register of Deeds may only accept documents~~
882 ~~that provide evidence of activities affecting Real Property title, preserve the record of a title~~
883 ~~document and give constructive notice of changes to a title document. Further, said documents~~
884 ~~must be originals, signed duplicates or certified copies. The following documents may be~~
885 ~~accepted by the Oneida Nation Register of Deeds.~~

886 ~~(a) Deeds;~~

887 ~~(b) Probate orders;~~

888 ~~(c) Mortgages and other valid liens;~~

889 ~~(d) Easements, covenants, and restrictions;~~

890 (e) Certified Survey Maps and plats of survey;

891 (f) Patents;

892 (g) Declarations of involuntary transfer or taking;

893 (h) Satisfactions;

894 (i) Leases made pursuant to the Leasing Law;

895 (j) Home Ownership Agreements made pursuant to the Landlord-Tenant Law; and

896 (k) Correction of title defects.

897 67.10-3. Accessibility. The Oneida Nation Register of Deeds shall provide open access to land
898 records and title documents.

899 67.10-4. Trust Land. All documents pertaining to Tribal Trust Land and Individual Trust Land
900 must be recorded with the Oneida Nation Register of Deeds and the Bureau of Indian Affairs
901 Land Titles and Records Office.

902 67.10-5. Tribal Seal. The Land Commission shall provide the Division of Land Management
903 with the Tribe's seal to be used to authenticate documents which are certified by the Oneida
904 Nation Register of Deeds.

905
906 **67.11. Real Estate Licensing and Certification.**

907 67.11-1. Wisconsin Real Estate License Required. All persons engaging in the acquisition of
908 Tribal Fee Land shall have and maintain a valid Wisconsin Real Estate License.

909 (a) While Wisconsin Real Estate Law allows Brokers to earn a commission based on
910 Real Property transactions, persons acquiring Tribal Fee Land on behalf of the Tribe are
911 regular Employees of the Tribe and therefore shall waive any commission for which they
912 might otherwise be eligible.

913 (b) All persons engaging in the acquisition of Tribal Land shall comply with the
914 requirements and conduct standards applicable to the maintenance of a Wisconsin Real
915 Estate License.

916 67.11-2. TAAMS Certification Required. All persons responsible for encoding leasing
917 information shall obtain a TAAMS certification, which includes, but is not limited to, the
918 following positions:

919 (a) Residential and Commercial Leasing Specialists;

920 (b) Land Title and Trust Manager; and

921 (c) Title Examiner.

922 67.11-3. Fiduciary Responsibility. All persons engaged in the buying or selling of Tribal Land
923 shall, at all times, act as a Fiduciary to the Tribe. Further, all such persons shall comply with all
924 applicable Tribal and federal laws.

925
926 **67.12. Real Estate Financing and Foreclosures.**

927 67.12-1. All real estate financing and foreclosures must be done in accordance with the
928 Mortgage and Foreclosure Law as implemented by the Comprehensive Housing Division.

929
930 **67.13. Organization.**

931 67.

932 13-1. Comprehensive Housing Division. The Comprehensive Housing Division shall
933 oversee all residential transactions within the Reservation and shall process and administer said
934 transactions using the applicable of the Landlord-Tenant Law, Mortgage and Foreclosure Law
935 and the Eviction Law.

936 67.13-2. Land Commission

937 ~~(a) Number of Commissioners. The Commission shall be.~~ The Commission is comprised
938 of seven (7) elected Tribal ~~members.~~

939 ~~(b) Term of Office. The terms of office for the~~Members. Land Commissioners ~~shall be terms~~
940 are for three (3) years. ~~Terms shall~~ and must be staggered with expiring ~~positions~~terms elected
941 every year. ~~The first elected Land Commissioners shall serve according to the following~~
942 formula, and staggering of terms shall begin thereafter:each year.

943 (1) ~~The three (3) candidates receiving the three highest number votes shall serve~~
944 ~~an initial term of three (3) years.~~

945 (2) ~~The two (2) candidates receiving the next two highest number votes shall serve~~
946 ~~an initial term of two (2) years.~~

947 (3) ~~The two (2) candidates receiving the next two highest number of votes shall~~
948 ~~serve an initial term of one (1) year.~~

949 (4) ~~In the event of a tie vote in the first election, a coin toss shall determine which~~
950 ~~candidate shall serve the longer term.~~

951 ~~(c) (a) Powers and Duties. The Land Commission shall have the following powers and~~
952 ~~duties:~~

953 (1) ~~The Land Commission shall set standards of professional competence and~~
954 ~~conduct for the professions detailed in this Law, review the examination grades of~~
955 ~~prospective new practitioners, grant licenses, investigate complaints of alleged~~
956 ~~unprofessional conduct, and perform other functions assigned to it by law.~~

957 (2) ~~Hear and decide, as the original hearing body, contested cases that may arise~~
958 ~~from this Law.~~

959 (3) ~~Implement and interpret~~ Interpret the provisions of this Law.

960 67.16-3. Administration

961 ~~(a) Director of~~ and create policy to guide the Division of Land Management.
962 ~~The Director shall have the following powers and duties:~~ in implementing the
963 same;

964 (1) ~~Hire, train,~~²⁾ Approve or deny all Easements and establish
965 operational Land Use Licenses;

966 (3) ~~Review and objective commitments~~adopt the Division of Land Management's
967 standard operating procedures for ~~support staff needed~~entering into agriculture
968 and commercial leases pursuant to the Leasing Law;

969 (4) Approve or deny all acquisition of Tribal Land;

970 (5) Allocate and assign land uses to all Tribal Land except those uses governed by
971 the Public Use of Tribal Land (Law); and

972 (A) The Land Commission shall develop Rules to govern the allocation
973 and assignment of land uses to Tribal Land.

974 (6) Name all buildings, roads, parks and the like on Tribal Land.

975 67.13-3. Division of Land Management. The Division of Land Management shall
976 implement this Law:

977 ~~(2) Supervise staff in accordance with Tribal Personnel Policies and Procedures~~the policy
978 directives provided by the Land Commission.

979 ~~(a) (3) Provide Declaratory Ruling per procedures in this Law~~Powers and Duties. The
980 Division of Land Management shall:

981 (1) Forward requests for Easements and Land Use Licenses to the Land
982 Commission based on the Easement and Land Use License Rules jointly
983 developed by the Land Commission and the Division of Land Management;

984 | (2) Administer and oversee the Oneida Nation ~~Administrative Procedures~~
985 | ~~Act.~~Register of Deeds;
986 | ~~(4) Implement all aspects of this Law through the Oneida Tribal Planning and~~
987 | ~~Budgeting Process.~~
988 | (3) Enter into agricultural and commercial leases pursuant to its standard
989 | operating procedures approved by the Land Commission and the Leasing Law;
990 | (4) Prepare title reports and process trust transactions; and
991 | (5) Process land acquisition transactions as approved by the Land Commission.

992 |
993 | *End.*

994 |
996 |
997 | Adopted - BC-5-29-96-A
998 | Amended-BC-3-01-06-D
999 | Amended-BC-04-28-10-E
1000 | Amended – BC-02-25-15-C
1001 | Amended-BC-05-13-15-B
1002 |

CHAPTER 67
REAL PROPERTY LAW
Tokáске Kayanláhsla Tsi? Ni'yohuntsya-té
The real/certain laws of the territory of the nation

67.1. Purpose and Policy.	67.8. Title Transfer.
67.2. Adoption, Amendment, Conflicts.	67.9. Leasing of Real Property.
67.4. Definitions.	67.10. Records.
67.5. General Provisions	67.11. Real Estate Licensing and Certification.
67.6. Holding of Ownership.	67.12. Real Estate Financing and Foreclosures.
67.7. Legal Descriptions.	67.13. Organization.

67.1. Purpose and Policy.

67.1-1. *Purpose.* The purpose of this Law is to provide regulations and procedures for the transfer, control and management of the territory within the Reservation; to integrate these regulations and procedures with the Real Property laws and practices of other federal and state sovereigns which may hold jurisdiction within the reservation; and to establish training and licensing requirements for all persons who list, sell, buy, exchange, lease, rent, or deal in any way with Real Property pursuant to this Law.

67.1-2. *Policy.* It is the policy of the Tribe to set out the responsibilities and expectations for persons handling and/or managing Real Property on behalf of the Tribe and/or within the Reservation and to provide Real Property holder's rights and responsibilities.

67.2. Adoption, Amendment, Conflicts.

67.2-1. This Law was adopted by the Oneida Business Committee by resolution BC-5-29-96-A and amended by resolutions BC-3-01-06-D, BC-04-28-10-E, BC-02-25-15-C and BC-05-13-15-B.

67.2-2. This Law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

67.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

67.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provisions of this law control, provided that:

- (a) The Land Ordinance is applicable only to valid land assignments existing as of January 1, 2016 and is hereby repealed upon the expiration of the last existing land assignment.

67.2-5. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

67.4. Definitions.

67.4-1. This section governs the definitions of words and phrases used within this Law. All words not defined herein are to be used in their ordinary and everyday sense.

- (a) "Attorney" means a person trained and licensed to represent another person in court, to prepare documents defining or transferring rights in Real Property and to give advice or counsel on matters of law.

- (b) "Broker" means a person who acts as an agent and negotiates the sale, purchase or rental of Real Property on behalf of others for a fee.

- 37 (c) “Buyer” means the person who purchases a piece of Real Property from a seller
38 Broker or salesperson or who hires a Broker to find a parcel of Real Property that has
39 certain characteristics or is usable for specific purposes.
- 40 (d) “Certified Survey Map” means a map which provides the legal description of Real
41 Property and is officially filed and approved by the county, Tribal or municipal
42 governments.
- 43 (e) “Easement” means a Real Property right to cross or otherwise utilize the land of
44 another for a specified purpose.
- 45 (f) “Education” means the provision of information to both the real estate practitioner
46 and the consumer.
- 47 (g) “Fiduciary” means a person required to act for the benefit of another person on all
48 matters within the scope of their relationship and by such a relationship owes another
49 duties of good faith, trust, confidence and candor. For the purposes of this Law, both
50 Brokers and salespersons are “Fiduciaries.”
- 51 (h) “Improvements” means buildings, other structures, and associated infrastructure
52 attached to Real Property.
- 53 (i) “Individual Fee Land” means Real Property held in fee status by an individual or
54 group of individuals.
- 55 (j) “Individual Tribal Land” means Real Property owned by a Tribal Member in fee
56 status or held in trust by the United State of America for the benefit of a Tribal Member.
- 57 (k) “Individual Trust Land” means Individual Tribal Land held in trust by the United
58 States of America for the benefit of a Tribal Member.
- 59 (l) “Judiciary” means the judicial system that was established by Oneida General Tribal
60 Council resolution GTC-01-07-13-B to administer the judicial authorities and
61 responsibilities of the Tribe.
- 62 (m) “Land Use License” means an agreement entered into by the Tribe authorizing a party
63 the right to occupy and/or utilize a specified piece of Tribal Land for a specific purpose
64 and a specific duration, which may require the Tribe to be compensated for such use.
- 65 (n) “Leasehold Mortgage” means a mortgage, deed of trust, or other instrument that
66 pledges a lessee’s leasehold interest as security for a debt or other obligation owed by the
67 lessee to a lender or other mortgagee.
- 68 (o) “Probate” means an official authentication of a will and/or official administration of
69 an estate of a deceased person.
- 70 (p) “Real Property” means land and anything growing on, attached to, or erected on the
71 land, excluding anything that may be severed without injury to the land.
- 72 (q) “Reservation” means all the property within the exterior boundaries of the
73 Reservation of the Oneida Tribe of Indians of Wisconsin, as created pursuant to the 1838
74 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.
- 75 (r) “Restricted Fee Status” means an interest in Real Property which includes a provision
76 in the deed or will that upon the happening or failure to happen of a certain event, the title
77 of the purchaser or devisee will be limited, enlarged, changed or terminated.
- 78 (s) “Rule” means any set of requirements enacted by a Tribal Entity pursuant to the
79 Administrative Rulemaking Law.
- 80 (t) “Title Status Report (TSR)” means a report issued by the Bureau of Indian Affairs
81 after a title examination which shows the proper legal description of a tract of Tribal
82 Land; current ownership, including any applicable conditions, exceptions, restrictions or
83 encumbrances on records; and whether the land is in unrestricted, restricted, trust, or
84 other status as indicated by the records in a Land Titles and Records Office.

85 (u) “Tribal Entity” means a board, committee, commission or department of the Tribe.
86 For the purposes of this Law, the term “Entity” does not include the Oneida Business
87 Committee or the Judiciary.

88 (v) “Tribe” or “Tribal” means the Oneida Tribe of Indians of Wisconsin.

89 (w) “Tribal Fee Land” means Tribal Land held in fee status by the Tribe within the
90 Reservation.

91 (x) “Tribal Member” means an individual who is an enrolled member of the Tribe.

92 (y) “Tribal Land” means Tribal Fee Land and Tribal Trust Land.

93 (z) “Tribal Trust Land” means the surface estate of land or any interest therein held by
94 the United States in trust for the Tribe; land held by the Tribe subject to federal
95 restrictions against alienation or encumbrance; land reserved for federal purposes; and/or
96 land held by the United States in trust for the Tribe under Section 17 of the Indian
97 Reorganization Act, 25 U.S.C §477, et. seq.

98 (aa) “Trust Asset and Accounting Management System (TAAMS)” means the Bureau of
99 Indian Affairs system for maintaining and tracking land title documents and all legal
100 documents relating to land transactions.

101 102 **67.5. General Provisions**

103 67.5-1. *Applicable Real Property.* The provisions of this Law extend to all Tribal Land and
104 Individual Tribal Land within the Reservation.

105 67.5-2. *Tribal Land Base.* Any transaction which adds Real Property to the Tribal Land base
106 must be administered through the Division of Land Management under the provisions of this
107 Law.

108 67.5-3. *Sale of Tribal Land Prohibited.* The sale of Tribal Land is specifically prohibited by this
109 Law, unless the intent of the transaction is the consolidation or partition of Tribal Trust Land
110 and/or Individual Trust Land.

111 67.5-4. *New Land Assignments Prohibited.* The Tribe may not acknowledge any new land
112 assignments. Further, in order to be eligible for a Tribal loan issued against a Real Property
113 interest held as a land assignment, the land assignment must first be converted to a residential
114 lease.

115 67.5-5. *Wisconsin Real Property Law.* The Tribe shall follow all applicable portions of the
116 Wisconsin Real Property Law when acquiring Individual Fee Land

117 67.5-6. *No Waiver of Sovereign Immunity.* Nothing in this Law may be construed as a waiver of
118 the Tribe’s sovereign immunity.

119 120 **67.6. Holding of Ownership.**

121 67.6-1. Interests in Real Property by more than one (1) person may be held in the following
122 ways:

123 (a) *Joint Tenancy with the Right of Survivorship.* Pursuant to this ownership mechanism
124 each owner has an equal, undivided interest in the Real Property. When an owner dies,
125 his/her share is divided among the remaining owners; the last living owner owns the
126 entire property.

127 (1) Real Property owned by married persons is held under this mechanism unless
128 they have executed a marital property agreement specifically stating that the Real
129 Property in question is held as tenants in common.

130 (b) *Tenancy in Common.* Pursuant to this ownership mechanism each owner has a
131 percentage divided interest in the Real Property. When an owner dies, his/her interest is
132 divided among his/her devisees or heirs.

133 (1) Real Property owned by more than one (1) person is owned under this
134 mechanism unless a deed, transfer document or marital property agreement
135 specifically states the Real Property is held as joint tenants with rights of
136 survivorship.
137

138 **67.7. Legal Descriptions.**

139 67.7-1. The legal description for any Real Property transferred under this Law must be derived
140 from a Certified Survey Map or survey completed by a registered land surveyor according to
141 currently accepted minimum standards for property surveys. If the Plat of Survey changes the
142 legal description of the Certified Survey Map for the same piece of property, the Certified
143 Survey Map's legal description will be used on transfer documents along with the survey
144 description, which must be designated as "Also Known As ..." Section, township, range and
145 fourth principal meridian must be within all Tribal legal descriptions.

146 67.7-2. Every land survey must be made in accordance with the county register of deeds'
147 records for fee land, and in accordance with the Oneida Division of Land Management's records
148 for Tribal Trust Lands and Individual Trust Lands. The surveyor shall acquire data necessary to
149 retrace record title boundaries such as deeds, maps, certificates of title, Title Status Reports,
150 Tribal leases, Tribal home purchase agreements, center line and other boundary line locations.

151 67.7-3. Legal descriptions defining land boundaries must be complete providing unequivocal
152 identification of line or boundaries.

153 67.7-4. All surveys prepared for the Tribe must comply with survey requirements outlined in the
154 Wisconsin Administrative Code, Chapter A-E7 and indicate setbacks, building locations and
155 encroachments, as applicable.

156 67.7-5. Legal descriptions must be used on transfer documents formalizing a purchase, real
157 estate sale, lease, foreclosure, Probate transfer, trust acquisition and Tribal resolutions.

158 67.7-6. When real estate is listed for sale or lease to Tribal Members, the address is adequate
159 legal description of the Real Property.
160

161 **67.8. Title Transfer.**

162 67.8-1. *Trust Acquisition.* The Division of Land Management shall only use title companies
163 duly registered with the Department of Interior and approved by the Division of Land
164 Management to update abstracts or provide title insurance on Real Property scheduled for trust
165 acquisition.

166 (a) Title companies must follow general guidelines provided by the federal government
167 in terms of form, content, period of search, destroyed or lost records and abstracter's
168 certificate.

169 (b) When researching land title for Real Property within the Reservation which is being
170 considered for trust acquisition, the title company must be requested to search the title
171 back to the original allottee, in order to assure that patents or Indian deeds were legally
172 issued.

173 (c) Any valid liens or encumbrances shown by the commitment for title insurance must
174 be eliminated before the title is transferred into Trust.

175 (d) After land is in trust both a title search of county records and a Title Status Report
176 requested by the Division of Land Management from the Bureau of Indian Affairs are
177 required to verify all valid encumbrances, if any, on the title.

178 (1) For the purposes of this Section, a valid encumbrance is one that has been
179 preapproved, in writing, by the Division of Land Management based on a

180 standard operating procedure that is effective upon approval by the Land
181 Commission.

182 (e) Division of Land Management applications to convert Tribal Fee Land into Tribal
183 Trust Land must be accompanied by Land Commission resolution approving said
184 conversion.

185 67.8-3. *Deeds.* A deed is the formal document used by the Division of Land Management to
186 transfer title from one party to another.

187 (a) A valid deed must:

188 (1) Be in writing;

189 (2) Identify the grantor (seller) and grantee (Buyer);

190 (3) Provide the legal description of the Real Property;

191 (4) Identify the interest conveyed, as well as any conditions, reservations,
192 exceptions, or rights of way attached to the interest;

193 (5) Be signed by or on behalf of each of the grantors (sellers);

194 (6) Be signed by or on behalf of each spouse of each of the grantors (sellers), if
195 applicable; and

196 (7) Be delivered to the grantee (Buyer).

197 (b) In addition to the requirements listed in Section 67.8-3(a), a deed prepared for trust
198 acquisition must include:

199 (1) The federal authority for trust acquisition;

200 (2) Any exceptions or exclusions from the State's fees or other transfer
201 requirements;

202 (3) The approximate acreage of the Real Property being transferred to trust; and

203 (4) The authority and signature of the appropriate Department of Interior official
204 who accepts the Real Property into trust.

205 (c) A deed transferring fee simple title must be recorded in the appropriate register of
206 deeds office, provided that, once the Real Property is in trust, the title must be recorded
207 with the Oneida Division of Land Management and the Bureau of Indian Affairs Land
208 Titles and Records Office.

209 67.8-6. *Involuntary Transfer of Title.* All involuntary transfers of title require a Judiciary
210 hearing, and may occur in the following ways:

211 (a) Tribal Eminent Domain. Tribal eminent domain, is the right of the Tribal
212 government to acquire private land for public uses without the consent of private owners.

213 (1) For the purposes of this Section, public uses include, but are not limited to,
214 environmental protection, streets, highways, sanitary sewers, public utility/sites,
215 waste treatment facilities and public housing.

216 (2) Prior to exercising Tribal eminent domain, the Tribe must first attempt to
217 negotiate an agreeable taking by making an offer to purchase based on a Tribal
218 appraisal of the Real Property and providing compensation for the taking.

219 (A) For the purposes of this Section, a Tribal appraisal means the Tribe's
220 process for estimating a piece of Real Property's value.

221 (3) The Tribe's exercise of Tribal eminent domain may be appealed to the
222 Judiciary.

223 (b) Foreclosure. Foreclosures may occur subject to the Mortgage and Foreclosure Law
224 when a Tribal Member ceases payment on a Leasehold Mortgage Improvements, a Tribal
225 home purchase agreement, or home improvement loan. All foreclosures must be filed
226 with the Judiciary and may be appealed to the same.

227 (c) Tribal Land Consolidation. Section 207 of the Indian Land Consolidation Act
228 (Pub.L. No. 97-459, 96 Stat. 2515, and amended on October 30, 1984 by Pub.L. No. 98-
229 608, 98 Stat. 3171) is incorporated into this Law which provides a mechanism for Real
230 Property within the Reservation to escheat, or pass, to the Tribe.

231 (1) Pursuant to Section 207 of the Indian Land Consolidation Act, an ownership
232 interest in Real Property escheats, or passes, to the Tribe, provided that it must
233 provide just compensation for the interest, if:

234 (A) The Real Property is within the Reservation boundaries;

235 (B) The decedent's ownership in the given parcel of land is two (2) percent
236 or less of the total acreage; and

237 (C) The interest is incapable of earning one hundred dollars (\$100.00) in
238 any one (1) of the five (5) years immediately following the decedent's
239 death.

240 (2) A decedent's heirs may appeal a Tribal Land consolidation under this Section
241 to the Judiciary.

242 (3) Tribal Land consolidation is subject to the requirements of the Probate Law.

243 (d) Transferring Interests Inherited by Non-Indians. If the owner of an interest of Real
244 Property located within the Reservation which is held in trust or Restricted Fee Status
245 devises such interest to a non-Tribal Member, the Tribe may acquire the said interest by
246 paying the fair market value of the interest determined as of the date of the decedent's
247 death. The said transfer is effective upon receipt of an Order Transferring Inherited
248 Interests from the Judiciary pursuant to Section 205 of the Indian Land Consolidation
249 Act.

250 (1) An Order Transferring Inherited Interests may not be granted if:

251 (A) While the decedent's estate is pending, the non-Indian devisee
252 denounces his or her interest in favor of an Indian person;

253 (B) The interest is part of a family farm that is devised to a member of the
254 Immediate Family of the decedent, provided that such a restriction must be
255 recorded as part of the deed relating to the interest involved; or

256 (C) The devisee agrees in writing that the Tribe may acquire the interest
257 for fair market value only if the interest is offered for sale to a person or
258 entity that is not a member of the Immediate Family of the owner of the
259 interest.

260 (e) Easements for Landlocked Properties. The Oneida Land Commission shall develop a
261 procedure for deciding on requests for Easements for landlocked properties.

262 67.8-7. The Oneida Law Office shall work with the Division of Land Management to initiate the
263 process for transferring all Tribal Fee Land.

265 **67.9. Leasing of Real Property.**

266 67.9-1. The Comprehensive Housing Division shall administer and process all leasing of Tribal
267 Land.

268 (a) For the purposes of this Law, leasing refers to all leases made pursuant to the Leasing
269 Law and all rental agreements made pursuant to the Landlord-Tenant Law.

270 (1) The Leasing Law definition of Tribal Land does not include Tribal Fee Land,
271 however pursuant to this Law, leases of Tribal Fee Land lasting longer than one
272 (1) year that are not made as part of the homeownership program which uses
273 federal funding must be administered and processed using the Leasing Law.

275 **67.10. Records.**

276 67.10-1.*Purpose.* The Division of Land Management shall oversee the administration of the
277 Oneida Nation Register of Deeds which shall accept and record documents related to Real
278 Property located within the Reservation.

279 67.10-2.*Types of Records.* The Oneida Nation Register of Deeds may only accept documents
280 that provide evidence of activities affecting Real Property title, preserve the record of a title
281 document and give constructive notice of changes to a title document. Further, said documents
282 must be originals, signed duplicates or certified copies. The following documents may be
283 accepted by the Oneida Nation Register of Deeds.

- 284 (a) Deeds;
- 285 (b) Probate orders;
- 286 (c) Mortgages and other valid liens;
- 287 (d) Easements, covenants, and restrictions;
- 288 (e) Certified Survey Maps and plats of survey;
- 289 (f) Patents;
- 290 (g) Declarations of involuntary transfer or taking;
- 291 (h) Satisfactions;
- 292 (i) Leases made pursuant to the Leasing Law;
- 293 (j) Home Ownership Agreements made pursuant to the Landlord-Tenant Law; and
- 294 (k) Correction of title defects.

295 67.10-3.*Accessibility.* The Oneida Nation Register of Deeds shall provide open access to land
296 records and title documents.

297 67.10-4. *Trust Land.* All documents pertaining to Tribal Trust Land and Individual Trust Land
298 must be recorded with the Oneida Nation Register of Deeds and the Bureau of Indian Affairs
299 Land Titles and Records Office.

300 67.10-5.*Tribal Seal.* The Land Commission shall provide the Division of Land Management
301 with the Tribe's seal to be used to authenticate documents which are certified by the Oneida
302 Nation Register of Deeds.

303

304 **67.11. Real Estate Licensing and Certification.**

305 67.11-1. *Wisconsin Real Estate License Required.* All persons engaging in the acquisition of
306 Tribal Fee Land shall have and maintain a valid Wisconsin Real Estate License.

307 (a) While Wisconsin Real Estate Law allows Brokers to earn a commission based on
308 Real Property transactions, persons acquiring Tribal Fee Land on behalf of the Tribe are
309 regular Employees of the Tribe and therefore shall waive any commission for which they
310 might otherwise be eligible.

311 (b) All persons engaging in the acquisition of Tribal Land shall comply with the
312 requirements and conduct standards applicable to the maintenance of a Wisconsin Real
313 Estate License.

314 67.11-2. *TAAMS Certification Required.* All persons responsible for encoding leasing
315 information shall obtain a TAAMS certification, which includes, but is not limited to, the
316 following positions:

- 317 (a) Residential and Commercial Leasing Specialists;
- 318 (b) Land Title and Trust Manager; and
- 319 (c) Title Examiner.

320 67.11-3. *Fiduciary Responsibility.* All persons engaged in the buying or selling of Tribal Land
321 shall, at all times, act as a Fiduciary to the Tribe. Further, all such persons shall comply with all
322 applicable Tribal and federal laws.

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67.12. Real Estate Financing and Foreclosures.

67.12-1. All real estate financing and foreclosures must be done in accordance with the Mortgage and Foreclosure Law as implemented by the Comprehensive Housing Division.

67.13. Organization.

67.13-1. *Comprehensive Housing Division.* The Comprehensive Housing Division shall oversee all residential transactions within the Reservation and shall process and administer said transactions using the applicable of the Landlord-Tenant Law, Mortgage and Foreclosure Law and the Eviction Law.

67.13-2. *Land Commission.* The Commission is comprised of seven (7) elected Tribal Members. Land Commissioners terms are for three (3) years and must be staggered with expiring terms elected each year.

(a) *Powers and Duties.* The Land Commission shall:

- (1) Interpret the provisions of this Law and create policy to guide the Division of Land Management in implementing the same;
- (2) Approve or deny all Easements and Land Use Licenses;
- (3) Review and adopt the Division of Land Management’s standard operating procedures for entering into agriculture and commercial leases pursuant to the Leasing Law;
- (4) Approve or deny all acquisition of Tribal Land;
- (5) Allocate and assign land uses to all Tribal Land except those uses governed by the Public Use of Tribal Land (Law); and
 - (A) The Land Commission shall develop Rules to govern the allocation and assignment of land uses to Tribal Land.
- (6) Name all buildings, roads, parks and the like on Tribal Land.

67.13-3. *Division of Land Management.* The Division of Land Management shall implement this Law in accordance with the policy directives provided by the Land Commission.

(a) *Powers and Duties.* The Division of Land Management shall:

- (1) Forward requests for Easements and Land Use Licenses to the Land Commission based on the Easement and Land Use License Rules jointly developed by the Land Commission and the Division of Land Management;
- (2) Administer and oversee the Oneida Nation Register of Deeds;
- (3) Enter into agricultural and commercial leases pursuant to its standard operating procedures approved by the Land Commission and the Leasing Law;
- (4) Prepare title reports and process trust transactions; and
- (5) Process land acquisition transactions as approved by the Land Commission.

End.

Adopted - BC-5-29-96-A
Amended-BC-3-01-06-D
Amended-BC-04-28-10-E
Amended – BC-02-25-15-C
Amended-BC-05-13-15-B



Legislative Operating Committee

January 20, 2016

Garnishment Amendments

Submission Date: 8/5/15

Public Meeting:
 Emergency Enacted:
Expires:

LOC Sponsor: David P. Jordan

Summary: *This item was brought to the LOC by the Judiciary to request an amendment to the ordinance which would allow the Judiciary to include interest when a garnishment is ordered as some creditors have been requesting interest, and the Judiciary has been denying it because the ordinance is silent.*

8/5/15 LOC: Motion by David P. Jordan to add the Garnishment Ordinance Amendments to the active files list with himself as the sponsor; seconded by Tehassi Hill. Motion carried unanimously.

9/16/15 LOC: Motion by David P. Jordan to defer Garnishment Ordinance Amendments to the sponsor's office to work with the Chief Financial Officer for recommendations, and bring back with the required analysis within 60 days; seconded by Tehassi Hill. Motion carried unanimously.

12/2/15 LOC: Motion by Jennifer Webster to accept the legislative analysis of the Garnishment Amendments with the directed change to the law, and prepare for a public meeting date of January 21, 2016; seconded by Fawn Billie. Motion carried with Fawn Billie abstaining.

Note: the directed change requires Tribal departments to pay filing fees instead of being exempt.

12/16/15 LOC: Motion by Jennifer Webster to approve the public meeting packet and to forward the Garnishment Amendments to a public meeting date of January 21, 2016; seconded by David P. Jordan. Motion carried unanimously.

- **Next Steps:** Review the public meeting packet for the Garnishment Amendments and approve the rescheduled public meeting to be held on February 18, 2016.



Notice of

Public Meeting

to be held

February 18, 2016 at 12:15 p.m.

OBC Conference Room—2nd Floor, Norbert Hill Center



Topic: Garnishment (Law) Amendments

The Legislative Operating Committee is hosting this Public Meeting to gather feedback from the community regarding a legislative proposal for amendments to the Garnishment (Law) that:

- ◆ Removes the specific amount of the garnishment action fee and the administrative fee from the Law and instead the Judiciary is authorized to determine the garnishment action fee amount, while the Accounting Department determines administrative fee amount [See 58.5-2 (a) (1) and 58.5-5 (a) (1)]. The current Law sets the garnishment action fee at \$25.00 and the administrative fee at \$5.00.
- ◆ Limits representation to an attorney or advocate [See 58.5-3 (d)]. The current Law allows the parties to be represented by someone to speak on their behalf.
- ◆ Requires post judgment interest be applied to the amount received beginning on the date of the judgment and ending on the date the garnishment order is satisfied [See 58.5-3 (d)]. The post judgment interest rate is a fixed rate and will be determined by 1) an agreement by both parties or 2) an annual post judgment rate equal to one percent plus the prime rate that was in effect on the date of the judgment [See 58.5-5 (d) (1) & (2)].

All community members are invited to attend this meeting to learn more about this proposal and/or to submit comments concerning this proposal.

Public Comment Period—Open until February 25, 2016

During the Public Comment Period, all interested persons may submit written comments regarding this legislative proposal; and/or a transcript of any testimony/spoken comments made during the Public Meeting. Written comments may be submitted to the Tribal Secretary's Office or to the Legislative Reference Office in person or by U.S. mail, interoffice mail, e-mail or fax.

For more information about the public meeting process, or to obtain copies of the Public Meeting documents for this proposal, please visit www.oneida-nsn.gov/Register/PublicMeetings or contact the Legislative Reference Office, which is located on the second floor of the Norbert Hill Center, Oneida WI.

Mail: **Legislative Reference Office**
PO Box 365
Oneida, WI 54155

Phone: **(920) 869-4376 or (800) 236-2214**
E-Mail: **LOC@oneidanation.org**
Fax: **(920) 869-4040**

Chapter 58
Garnishment
Lotihwistáhkwa Olihwá·ke
the matter of taking money out

58.1. Purpose and Policy
58.2. Adoption, Amendment, Repeal
58.3. Definitions
58.4. General

58.4-1. Jurisdiction. By filing a Petition, Creditors are submitting to the jurisdiction of the Tribe for the subject action.
58.5. Garnishment Action Procedure
58.6. Recognition of Child Support Orders
58.7. Discharge from Employment

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58.1. Purpose and Policy

58.1-1. The purpose of this Law is to exercise the authority of the Oneida Tribe of Indians to provide an effective mechanism for creditors to access an employee’s income for reduction of personal debt.

58.1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to afford all individuals due process.

58.2. Adoption, Amendment, Repeal

58.2-1. This Law is adopted by the Oneida Business Committee by resolution # BC-4-2-97-G and amended by resolution BC-06-25-14-B and _____.

58.2-2. This Law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Oneida Legislative Procedures Act.

58.2-3. Should a provision of this Law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this Law which are considered to have legal force without the invalid portions.

58.2-4. In the event of a conflict between a provision of this Law and a provision of another law, the provision of this Law controls.

58.2-5. This Law is adopted under the authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

58.3. Definitions

58.3-1. This Article governs the definitions of words or phrases as used herein. All words not defined herein are to be used in their ordinary and everyday sense.

(a) “Accounting Department” means that department of the Tribe charged with managing the finances of the Tribe, specifically, the office charged with responsibility for the payroll of the Tribe.

(b) “Administrative Fee” means the fee to cover the Accounting Department’s costs associated with enforcing Garnishment Orders.

(c) “Creditor” means anyone who is awarded a money Judgment which may include a Tribal or a non-Tribal entity. Should the Tribe be the creditor, a designee from the Tribal entity shall represent the claim of indebtedness.

(d) “Debtor” means the Employee whom the Judgment has been awarded against.

(e) “Disposable Earnings” means the part of the Debtor’s gross Earnings for a pay period remaining after deductions required by state and federal law.

(f) “Earnings” means compensation payable in exchange for personal services and includes, but is not limited to, wages, salaries, bonuses, commissions, expense

38 reimbursements, trade-back-for-cash benefits and/or final paychecks involving pay-out of
39 benefits.

40 (g) “Employee” means any individual hired by the Tribe and on the Tribe’s payroll and
41 encompasses all forms of employment, including but not limited to, full-time, part-time,
42 at-will, elected/appointed officials, political appointees and contracted persons.

43 (h) “Garnishment” means the legal process in which the Earnings of the Debtor is
44 required to be withheld by the Tribe for a payment of a money judgement.

45 (i) “Garnishment Action Fee” means the fee paid to the Judiciary to cover the
46 administrative costs incurred during the Garnishment proceedings.

47 (j) “Garnishment Hearing” means the time and location where the Judiciary hears
48 relevant evidence, determines the validity of the Petition for Garnishment and identifies
49 the amount of the Garnishment Order, if applicable.

50 (k) “Garnishment Order” means the order issued by the Judiciary which requires the
51 Tribe to withhold an Employee’s Earnings in order to satisfy a Creditor’s unpaid money
52 Judgment and must include any fees assessed against the Debtor.

53 (l) “Judge” means the member of the Judiciary assigned to hear the Petition for
54 Garnishment.

55 (m) “Judgment” means any judgment, decree, or order from a court of competent
56 jurisdiction, including, but not limited to, the Judiciary, which awards money to one or
57 more parties.

58 (n) “Judiciary” means the judicial system that was established by Oneida General Tribal
59 Council resolution GTC-01-07-13-B to administer the judicial authorities and
60 responsibilities of the Tribe.

61 (o) “Petition” means a formal written request to the Judiciary to issue a Garnishment
62 Order.

63 (p) “Judge” means the member of the Judiciary assigned to hear the Petition for
64 Garnishment.

65 (q) “Tribal” or “Tribe” means the Oneida Tribe of Indians of Wisconsin.

66

67 **58.4. General**

68 58.4-1. Jurisdiction. By filing a Petition, Creditors are submitting to the jurisdiction of the Tribe
69 for the subject action.

70 58.4-2. Consumer Protection Act. This Law may be interpreted to allow the fullest protections
71 available to Debtors by the federal Consumer Protection Act, 16 U.S.C. §1671, et seq., state laws
72 protecting Debtors in Child Support Orders, and other federal laws.

73 **58.5. Garnishment Action Procedure**

74 58.5-1. Judgment Required. A Creditor must obtain a Judgment before filing a Petition.

75 58.5-2. Filing Action. In order to initiate a Garnishment, the Creditor must file a petition with
76 the Judiciary. The Petition must identify the Creditor, the intended Debtor, any other interested
77 parties, the reason for the claim, the name of the court that issued the Judgment and the amount
78 awarded. The Creditor must include a copy of the Judgment when filing the Petition.

79 (a) The Creditor shall pay the Garnishment Action Fee before the Judiciary may consider
80 the Petition complete.

81 (1) The Judiciary shall determine the amount of the Garnishment Action Fee and
82 post notice of the fee amount at the Judiciary and on the Judiciary’s webpage.

83 58.5-3. Garnishment Hearing. The Judiciary shall hold a Garnishment Hearing within sixty (60)
84 days of receiving the completed Petition.

85 (a) The Judiciary shall provide written notice of the garnishment hearing to the Creditor,
86 Debtor and any other interested parties within ten (10) business days of receiving the
87 completed petition.

88 (b) The Debtor may challenge the authenticity of the Judgment document at the
89 Garnishment Hearing but he or she may not challenge the validity of the Judgment.

90 (c) A Garnishment Hearing may be used to resolve one (1) or more Petitions for one (1)
91 or more Debtors; however, each Petition must be heard and determined separately.

92 (d) Throughout the Garnishment proceedings, the parties may choose to represent
93 themselves or may be represented by an attorney or advocate. All parties shall have an
94 equal opportunity to present evidence at the Garnishment Hearing.

95 58.5-4. Final Decision. The Judge shall make the final decision regarding a Garnishment Order
96 within five (5) business days of the Garnishment Hearing. The Judge shall provide written
97 notice of the final decision to all parties within ten (10) business days of his or her decision. If a
98 Garnishment Order is issued, the written notice must include a copy of the Garnishment Order.

99 58.5-5. Garnishment Orders. Should the Judiciary issue a Garnishment Order, it must include
100 the following:

101 (a) An Administrative Fee which must be assessed against the Debtor each pay period
102 until the Garnishment Order is paid in full.

103 (1) The Accounting Department shall determine the amount of the
104 Administrative Fee and provide notice of the fee amount to the Judiciary. The
105 Judiciary shall post notice of the Administrative Fee amount in the Judiciary and
106 on the Judiciary's webpage.

107 (b) The Garnishment Action Fee which must be awarded to the Creditor.

108 (c) The Garnishment amount. The Judge must begin with a presumption that a total of
109 twenty percent (20%) of a Debtor's Disposable Earnings per pay period may be subject to
110 Garnishment(s) at any one time

111 (1) In calculating the amount of the Garnishment per pay period, the Judge may
112 not include amounts garnished pursuant to child support orders when calculating
113 twenty percent (20%) of the Debtor's Disposable Earnings.

114 (A) The Debtor may request the Judiciary to lower the percentage
115 deducted from his or her disposable earnings if the he or she can show that
116 requiring a deduction of the maximum twenty percent (20%) would cause
117 him or her undue harm by demonstrating that one (1) or more of the
118 following apply:

119 (i) The Debtor is subject to child support orders that would leave
120 him or her with less than fifty percent (50%) of his or her
121 Earnings;

122 (ii) The Debtor receives, is eligible for or, within six (6) months
123 of the date the Judiciary received the completed Petition, received
124 public assistance;

125 (iii) The Debtor's household income is below the current federal
126 poverty level;

127 (iv) The Garnishment of twenty percent (20%) of the Debtor's
128 disposable earnings would cause the Debtor's household income to
129 drop below the current federal poverty level; or

130 (v) The Garnishment of twenty percent (20%) of the Debtor's
131 disposable earnings would cause the Debtor undue harm for
132 reasons not identified in this section.

133 (2) The Debtor may request a higher percentage be deducted from his or her
134 disposable earnings. Such requests must be made directly to the Judiciary.

135 (3) Nothing in this Law prohibits the Debtor from making additional payments to
136 satisfy the Garnishment Order, provided that, if a Creditor receives payments
137 from the Debtor outside of the Garnishment process, he or she must provide
138 notice of said payment to the Accounting Department with a copy to the Debtor.

139 (d) Post Judgment Interest. Post Judgment interest must be applied to the amount
140 recovered from the date of the Judgment until the Garnishment Order is satisfied. The
141 post Judgment interest rate must be fixed for the duration of the Garnishment Order and
142 is determined by one (1) of the following:

143 (1) An agreement by the parties to the Garnishment as to a fair annual post
144 Judgment interest rate; or

145 (2) An annual post Judgment interest rate equal to one percent (1%) plus the
146 prime rate in effect on the date in which the Judgment was awarded, as reported
147 by the Federal Reserve Board in federal reserve statistical release H. 15.

148 58.5-6. Notice of Garnishment to Accounting Department. The Judiciary shall provide the
149 Accounting Department with a copy of the Garnishment Order after the timeframe for all appeals
150 has been exhausted.

151 58.5-7. Garnishment Implementation. Within ten (10) business days of receiving a copy of the
152 Garnishment Order the Accounting Department shall implement the Garnishment by:

153 (a) Deducting the appropriate amount from the Debtor's paycheck(s) and forward that
154 amount to the Creditor; and

155 (b) Notify the Debtor and Creditor when the Garnishment Order has been fulfilled.

156 58.5-8. Summary Process. The Judiciary shall summarily process Petitions when the Debtor
157 owes fifty dollars (\$50) or less, unless the Debtor formally requests a Garnishment Hearing.

158 (a) For the purposes of this section, to summarily process a Petition means a Judge may
159 make a determination regarding the Garnishment Order without holding a Garnishment
160 Hearing.

161 58.5-9. Appeals. A party may appeal the decision regarding a Garnishment Order, provided
162 that the appeal must be submitted within ten (10) business days from the date of the notice of the
163 Judge's determination. The appeal shall be filed with the Judiciary's Court of Appeals in
164 accordance with the Judiciary Law and any applicable rules and procedures.

165 58.5-10. Records. The Judiciary shall keep records of all Garnishment actions. The records
166 must contain, at minimum:

167 (a) Correspondence and notices to all parties involved;

168 (b) Bookkeeping records;

169 (c) Garnishment evidence presented by all parties and

170 (d) Decisions made by the Judge.

171

172 58.6. Recognition of Child Support Orders

173 58.6-1. Orders for child support against any Employee must be recognized and enforced,
174 provided that the order has been issued from a court of competent jurisdiction.

175 58.6-2. Authenticity of Order. The Judiciary must receive such child support orders and shall
176 verify the authenticity of such orders. Upon verification of the child support order, the Judge
177 shall forward such order to the Accounting Department for action.
178 58.6-3. Administrative Fee. An Administrative Fee must be assessed monthly so long as the
179 child support deduction is in effect.

180

181 **58.7. Discharge from Employment**

182 58.7-1. The Tribe shall not discharge from employment, refuse to employ or otherwise take
183 disciplinary action against an Employee solely because the Employee is subject to a Garnishment
184 action.

185

186 *End.*

187

188 Adopted - BC-6-2-92
189 Adopted - BC-6-10-92
190 Adopted - BC-4-2-97-G
191 Amended - BC-06-25-14-B

Chapter 58
Garnishment Ordinance
Lotihwistáhkwa Olihwá·ke
the matter of taking money out

58.1. Purpose and Policy
58.2. Adoption, Amendment, Repeal
58.3. Definitions
58.4. General

58.5. Garnishment Action Procedure
58.6. Recognition of Child Support Orders
58.7. Discharge from Employment

<i>Analysis by the Legislative Reference Office</i>	
Title	Garnishment (Law)
Requester	Judiciary
Drafter	Krystal L. John
Analyst	Candice E. Skenandore
Reason for Request	To state whether or not the Judiciary can include interest when a garnishment is ordered.
Purpose	The purpose of this Law to utilize the authority of the Tribe to provide an effective mechanism for creditors to access an employee’s income for reduction of personal debt [See 58.1-1].
Authorized/ Affected Entities	Tribal employees that incur personal debt, the Accounting Department, the Judiciary (excluding the Family Court), creditors (can include Tribal entities), and a court of competent jurisdiction
Due Process	A party can appeal the decision regarding a garnishment order to the Court of Appeals within ten business days from the date of the notice of the Judge’s determination [See 58.5-9].
Related Legislation	Related Tribal legislation includes the Judiciary Law and Rules of Appellate Procedure. The Child Support Law and Per Capita Law have similar concepts.
Enforcement	The Judiciary can issue a garnishment order against the debtor [See 58.5-4].

Overview

1
2 This Law and the Child Support both deal with wage withholdings; however, this Law
3 sets the hearing process for withholdings of Tribal employees that have personal debt. This
4 personal debt can include to, but is not limited to child support orders from a court of competent
5 jurisdiction. Child Support sets the process for child support orders made by the Family Court;
6 those orders will not follow this Law [See 58.6 and Child Support 78.9-2].

7 This Law explains how a creditor can seek a garnishment order against a debtor. The
8 creditor must file a petition with the Judiciary and once the petition is received, the Judiciary
9 must hold a garnishment hearing within 60 days. Within five business days of the garnishment
10 hearing, the Judge will make a final decision and notify the parties. If the Judge issues a
11 garnishment order, he/she will calculate a percentage of the debtor’s disposable income that will
12 be garnished, starting with a presumption that 20 percent of the debtor’s disposable income can
13 be garnished. However, the debtor can request a lesser percentage be garnished from his/her
14 disposable income if the debtor meets certain criteria. On the other hand, the debtor can also
15 request a greater percentage be garnished. Once the garnishment order is issued, the Accounting
16 Department will begin deducting the appropriate amount from the debtor’s paycheck within ten
17 business days of receiving a copy of the garnishment order. If the debtor owes \$50 or less, the
18 Judge can hold a summary proceeding which does not require a formal hearing. A party can
19 appeal the Judge’s decision regarding the garnishment. An employee cannot be discharged,
20 disciplined or an applicant cannot be turned away solely because he/she is subject to a
21 garnishment action.

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Proposed Amendments

Although there are a number of proposed amendments made to this Law, the following amendments have the greatest impact:

- The current Law sets the garnishment action fee at \$25.00 and the administrative fee at \$5.00. These amounts have been removed from the Law and instead the Judiciary is authorized to determine the garnishment action fee amount, while the Accounting Department determines administrative fee amount [See 58.5-2 (a) (1) and 58.5-5 (a) (1)].
- The current Law allows the parties to be represented by someone to speak on their behalf. The proposed amendments limit representation to an attorney or advocate [See 58.5-3 (d)].
- A post judgment interest must be applied to the amount received beginning on the date of the judgment and ending on the date the garnishment order was satisfied [See 58.5-3 (d)]. The post judgment interest rate is a fixed rate and will be determined by 1) an agreement by both parties or 2) an annual post judgment rate equal to one percent plus the prime rate that was in effect on the date of the judgment [See 58.5-5 (d) (1) & (2)].

Considerations

The LOC may want to consider the following:

- These amendments require both Tribal and non-Tribal entities to pay the garnishment action fee [See 58.5-2 (a) (2)]. The purpose of the garnishment action fee is to cover the administrative costs incurred by the Judiciary in a garnishment proceeding [See 58.3-1 (i)]. The Judiciary will still incur these costs even if the creditor is a Tribal entity. The garnishment action fee is ultimately paid by the debtor through the garnishment process; however the fee is paid over time. The Judiciary would prefer to receive the garnishment action fee directly from Tribal entities at the time of filing like all other entities who file garnishments; whereas, Tribal entities do not prefer to pay the garnishment action fee to utilize the Tribe’s judiciary to collect unpaid debts from Tribal employees. The LOC may want to consider the impact the garnishment action fee will have on Tribal entities’ budgets as opposed to the Judiciary budget when a Tribal entity is the creditor in a garnishment action.
- The Law allows the debtor to request the Judiciary to lower the percentage deducted from his or her disposable earnings if he or she can show, among other things, that 1) the debtor receives, is eligible for or within six months from when the petition was filed, received public assistance or 2) the debtor’s household income is below the federal poverty level [See 58.5-5 (c) (1) (A) (ii & iii)]. The Law does not address what happens if one of the above instances occurs after a garnishment order has been issued. The LOC may want to consider clarifying if a debtor can request a modification to the garnishment order.
- This Law defines Judiciary as “the judicial system that was established by . . . GTC Resolution 01-07-13-B to administer the judicial authorities and responsibilities of the Tribe” [See 58.3-1 (n)]. Because the Family Court was adopted pursuant to BC Resolution 05-08-13-A, it not included in the definition for “Judiciary” and cannot hold garnishment hearings in accordance with this Law.
- Because the Law does not define “court of competent jurisdiction”, the LOC may want to specify if Tribal entities are considered courts of competent jurisdiction. In other words, if a Tribal entity issues a judgment, would that judgment satisfy the requirement set forth

- 69 58.5-1?
- 70 ■ The LOC may want to expand the definition for “earnings” to specifically exclude per
- 71 capita payments. The Per Capita Law addresses how attachments are made to per capita
- 72 payments [*See 58.3-1 (c) and Per Capita 9.4-6*].
- 73

74 **Miscellaneous**

75 A public meeting has not been held. Additional changes have been made throughout the

76 Law to ensure compliance with Tribal drafting style. In addition, revisions have been made to

77 improve the flow and sequence of the Law without changing the intended content. Please refer

78 to the fiscal impact statement for any financial impacts.

79

80 **58.1-1. Purpose and Policy**

81 58.1-1. The purpose of this ~~Ordinance~~ Law is to ~~utilize~~ exercise the authority of the Oneida

82 Tribe of Indians to provide an effective mechanism for creditors to access an employee’s income

83 for reduction of personal debt.

84 58.1-2. It is the policy of the Oneida Tribe of Indians of Wisconsin to afford all individuals due

85 process.

86 ~~process.~~

87

88 **58.2-1. Adoption, Amendment, Repeal**

89 58.2-1. This ~~law~~ Law is adopted by the Oneida Business Committee by resolution # BC-4-2-97-

90 G and amended by resolution BC-06-25-14-B and _____.

91 58.2-2. This ~~law~~ Law may be amended or repealed by the Oneida Business Committee or

92 General Tribal Council pursuant to the procedures set out in the Oneida

93 Administrative ~~Legislative~~ Procedures Act ~~by the Oneida Business Committee or Oneida General~~

94 Tribal Council.

95 58.2-3. Should a provision of this ~~law~~ Law or the application thereof to any person or

96 circumstances be held as invalid, such invalidity ~~shall~~ does not affect other provisions of this

97 ~~law~~ Law which are considered to have legal force without the invalid portions.

98 ~~58.2-4. All other Oneida laws, policies, regulations, rules, resolutions, motions and all other~~

99 ~~similar actions which are inconsistent with this law are hereby repealed unless specifically re-~~

100 ~~enacted after adoption of this policy.~~

101 58.2-4. In the event of a conflict between a provision of this Law and a provision of another law,

102 the provision of this Law controls.

103 58.2-5. This ~~law may be cited as the~~ “Garnishment Ordinance.”

104 ~~58.2-6. This law may be interpreted to allow the fullest protections available to respondents~~

105 ~~available by~~ Law is adopted under the ~~federal Consumer Protection Act, 16 U.S.C. §1671, et~~

106 ~~seq., state laws protecting respondents in Child Support Orders, and other federal laws~~ authority

107 of the Constitution of the Oneida Tribe of Indians of Wisconsin.

108

109 **58.3-1. Definitions**

110 58.3-1. This Article ~~shall govern~~ governs the definitions of words or phrases as used herein. All

111 words not defined herein ~~shall~~ are to be used in their ordinary and everyday sense.

112 58.3-2. “Compensation” shall mean remuneration paid or (a) “Accounting Department”

113 means that department of the Tribe charged with managing the finances of the Tribe,

114 specifically, the office charged with responsibility for the payroll of the Tribe.

115

116 (b) “Administrative Fee” means the fee to cover the Accounting Department’s costs
117 associated with enforcing Garnishment Orders, payable for personal services and travel,
118 denominated as wages, bonuses, salary, expenses, and/or mileage. Compensation shall
119 include any trade back for cash benefit or final paycheck involving pay out of benefits
120 for a discharged employee.

121 ~~58.3-3. “Creditor” shall refer to one who seeks payment from the respondent through the~~
122 ~~process of garnishment, pursuant to a Final Judgment through a garnishment action. The~~
123 ~~Oneida Tribe is not excluded from being the creditor. This includes all departments,~~
124 ~~programs, enterprises, authorities, or other bodies created pursuant to (c)~~

125 “Creditor” means anyone who is awarded a money Judgment which may include a
126 Tribal law or a non-Tribal entity. Should the Oneida Tribe be the creditor, a designee of
127 the department, program or enterprise from the Tribal entity shall represent the claim of
128 indebtedness.

129 ~~58.3-4. “(d) “Debtor” means the Employee” shall mean any employee whom the Judgment~~
130 ~~has been awarded against.~~

131 (e) “Disposable Earnings” means the part of the Oneida Debtor’s gross Earnings for a pay
132 period remaining after deductions required by state and federal law.

133 (f) “Earnings” means compensation payable in exchange for personal services and
134 includes, but is not limited to, wages, salaries, bonuses, commissions, expense
135 reimbursements, trade-back-for-cash benefits and/or final paychecks involving pay-out of
136 benefits.

137 (g) “Employee” means any individual hired by the Tribe and on the Tribe’s payroll and
138 encompasses all forms of employment, including but not limited to, full-time, part-time,
139 at-will, elected/appointed officials, political appointees and contracted persons.

140 ~~58.3-5. “Oneida Tribe” shall mean the Oneida Tribe of Indians of Wisconsin.~~

141 ~~58.3-6. (h) “Garnishment” shall mean means the legal process in which money in the~~
142 ~~hands Earnings of the Oneida Tribe of Indians of Wisconsin as employer, due Debtor is~~
143 ~~required to be withheld by the respondent and are being claimed by Tribe for a~~
144 ~~creditor payment of a money judgement.~~

145 ~~58.3-7. (i) “Garnishment Action Fee” means the fee paid to the Judiciary to cover the~~
146 ~~administrative costs incurred during the Garnishment proceedings.~~

147 (j) “Garnishment Hearing” means the time and location where the Judiciary hears
148 relevant evidence, determines the validity of the Petition for Garnishment and identifies
149 the amount of the Garnishment Order, if applicable.

150 (k) “Garnishment Order” means the order issued by the Judiciary which requires the
151 Tribe to withhold an Employee’s Earnings in order to satisfy a Creditor’s unpaid money
152 Judgment and must include any fees assessed against the Debtor.

153 (l) “Judge” means the member of the Judiciary assigned to hear the Petition for
154 Garnishment.

155 (m) “Judgment” means any judgment, decree, or order from a court of competent
156 jurisdiction, including, but not limited to, the Judiciary, which awards money to one or
157 more parties.

158 (n) “Judiciary” means the judicial system that was established by Oneida General Tribal
159 Council resolution GTC-01-07-13-B to administer the judicial authorities and
160 responsibilities of the Tribe.

161 ~~58.3-8. (o) “Petition” means a formal written request to the Judiciary to issue a Garnishment~~
162 ~~Order. “Reservation” shall mean all lands within the Oneida Indian Reservation of~~
163 ~~Wisconsin as established by the Treaty with the Oneida, 1838.~~

164 ~~58.3-9. “Respondent” shall mean the employee (p) “Judge” means the member of the~~
165 ~~Oneida Tribe who is subject to a garnishment action within the Oneida Tribe or person subject to~~
166 ~~a repayment action.~~

167 ~~58.3-10. “Hearing Officer” shall mean the Judiciary and the representative designated assigned~~
168 ~~to hear the garnishment action~~Petition for Garnishment.

169 (q) “Tribal” or “Tribe” means the Oneida Tribe of Indians of Wisconsin.

171 58.4. General

172 58.4-1. Jurisdiction. By filing a Petition, Creditors are submitting to the jurisdiction of the Tribe
173 for the subject action.

174 58.4-2. Consumer Protection Act. This Law may be interpreted to allow the fullest protections
175 available to Debtors by the federal Consumer Protection Act, 16 U.S.C. §1671, et seq., state laws
176 protecting Debtors in Child Support Orders, and other federal laws.

177 58.5. Garnishment Action Procedure

178 58.5-1. Judgment Required. A Creditor must obtain a Judgment before filing a Petition.

179 58.5-2. Filing Action. 58.3-11. “Accounting Department” means that department of the Oneida
180 Tribe charged with managing the finances of the Oneida Tribe, specifically, the office charged
181 with responsibility for the payroll of the Oneida Tribe. That office shall designate a
182 representative for receiving garnishment orders, irrevocable voluntary payroll deduction
183 agreements, and child support orders, which shall be forwarded to the Hearing Body.

184 ~~58.4-1. Garnishment Action Procedure. Judgement Required. A creditor shall begin a~~
185 ~~garnishment action against an employee of the Oneida Tribe by first obtaining a final judgment~~
186 ~~from an appropriate court. A garnishment action under this section shall not begin unless the~~
187 ~~creditor has already obtained a valid final judgment and can show proof of judgment to the~~
188 ~~Hearing Officer.~~

190 ~~58.4-2. Filing Action. The creditor shall be responsible for notifying the Hearing Officer of its~~
191 ~~intent to begin the garnishment action.~~

192 ~~(a) A written notice shall be mailed or given to the Hearing Officer indicating the~~
193 ~~creditor, the intended respondent, the reason for the claim and the amount of the claim.~~

194 ~~(b) The Hearing Officer shall, within ten days, set a date and time for a garnishment~~
195 ~~hearing. The date for the hearing shall be within sixty days of receipt of the first~~
196 ~~notification to the Hearing Officer.~~

197 ~~(c) It is the responsibility of the Hearing Officer to notify the creditor, respondent, and~~
198 ~~any other parties in interest as to the date, time and place of the garnishment hearing.~~

199 ~~58.4-3. Hearing. The Hearing Officer shall establish a designated date, time, and place to hear~~
200 ~~evidence in In order to render a determination as to the validity of a claim by the creditor in a~~
201 ~~garnishment action and the amount of the garnishment order to be entered. Hearings shall not be~~
202 ~~utilized to initiate a Garnishment, the Creditor must file a petition with the Judiciary. The~~
203 ~~Petition must identify the Creditor, the intended Debtor, any other interested parties, the reason~~
204 ~~for the claim, the name of the court that issued the Judgment and the amount awarded. The~~
205 ~~Creditor must include a copy of the Judgment when filing the Petition.~~

206 (a) The Creditor shall pay the Garnishment Action Fee before the Judiciary may consider
207 the Petition complete.

208 (1) The Judiciary shall determine the amount of the Garnishment Action Fee and
209 post notice of the fee amount at the Judiciary and on the Judiciary's webpage.

210 58.5-3. Garnishment Hearing. The Judiciary shall hold a Garnishment Hearing within sixty (60)
211 days of receiving the completed Petition.

212 (a) The Judiciary shall provide written notice of the garnishment hearing to the Creditor,
213 Debtor and any other interested parties within ten (10) business days of receiving the
214 completed petition.

215 (b) The Debtor may challenge the authenticity of the Judgment document at the
216 Garnishment Hearing but he or she may not challenge the validity of the final judgement
217 other than the authenticity of the document. The time may be Judgment.

218 (c) A Garnishment Hearing may be used to resolve one (1) or more deduction claims of
219 Petitions for one (1) or more employees. However Debtors; however, each claim
220 shall Petition must be heard and determined separately. This hearing will be known as the
221 Garnishment Hearing.

222 58.4-4. (d) Throughout the Garnishment proceedings, the parties may choose to Final Decision.
223 The Hearing Officer will make the final decision as to the garnishment action within five days of
224 the garnishment hearing and notify by formal order all parties within ten days of the decision.

225 58.4-5. Representation. The respondent and creditor may represent themselves or may
226 be represented by someone to speak on their behalf, if they so choose. Both an attorney or
227 advocate. All parties shall have an equal opportunity to present evidence as to the action
228 to be taken before a Hearing Officer at the garnishment hearing at the Garnishment
229 Hearing.

230 58.4-6. Notice of Garnishment. 58.5-4. Final Decision. The Hearing Officer will notify the
231 Accounting Department should a decision to garnish an employee's compensation be made.
232 Such notice shall be forwarded after the deadline for an appeal has passed. Provided that, no
233 garnishments shall be allowed where an appeal has been filed by an employee within the appeal
234 deadline. The notice shall contain the amount to be garnished, how long the garnishment will
235 take place or the number of garnishment and any related fees authorized under this Ordinance.

236 58.4-7. The Judge shall make the final decision regarding a Garnishment Order within five (5)
237 business days of the Garnishment Hearing. The Judge shall provide written notice of the final
238 decision to all parties within ten (10) business days of his or her decision. If a Garnishment
239 Order is issued, the written notice must include a copy of the Garnishment Order.

240 58.5-5. Garnishment Orders. Should the Judiciary issue a Garnishment Order, it must include
241 the following:

242 (a) An Administrative Fee which must be assessed against the Debtor each pay period
243 until the Garnishment Order is paid in full.

244 (1) Garnishment Implementation. The Accounting Department shall begin garnishments within
245 ten days of notification of the judgment. The Accounting Department shall then:

246 (a) Send to the creditor the allowable determine the amount garnished from the
247 employee's paycheck following each payroll period of the Administrative Fee and
248 provide notice of the fee amount to the Judiciary. The Judiciary shall post notice
249 of the Administrative Fee amount in the Judiciary and on the Judiciary's
250 webpage.

251 (b) The Garnishment Action Fee which must be awarded to the Creditor.

252 (c) The Garnishment amount. The Judge must begin with a presumption that a total of
253 twenty percent (20%) of a Debtor's Disposable Earnings per pay period may be subject to
254 Garnishment(s) at any one time

255 (1) In calculating the amount of the Garnishment per pay period, the Judge may
256 not include amounts garnished pursuant to child support orders when calculating
257 twenty percent (20%) of the Debtor's Disposable Earnings.

258 (A) The Debtor may request the Judiciary to lower the percentage
259 deducted from his or her disposable earnings if the he or she can show that
260 requiring a deduction of the maximum twenty percent (20%) would cause
261 him or her undue harm by demonstrating that one (1) or more of the
262 following apply:

263 (i) The Debtor is subject to child support orders that would leave
264 him or her with less than fifty percent (50%) of his or her
265 Earnings;

266 (ii) The Debtor receives, is eligible for or, within six (6) months
267 of the date the Judiciary received the completed Petition, received
268 public assistance;

269 (iii) The Debtor's household income is below the current federal
270 poverty level;

271 (iv) The Garnishment of twenty percent (20%) of the Debtor's
272 disposable earnings would cause the Debtor's household income to
273 drop below the current federal poverty level; or

274 (v) The Garnishment of twenty percent (20%) of the Debtor's
275 disposable earnings would cause the Debtor undue harm for
276 reasons not identified in this section.

277 (2) The Debtor may request a higher percentage be deducted from his or her
278 disposable earnings. Such requests must be made directly to the Judiciary.

279 (3) Nothing in this Law prohibits the Debtor from making additional payments to
280 satisfy the Garnishment Order, provided that, if a Creditor receives payments
281 from the Debtor outside of the Garnishment process, he or she must provide
282 notice of said payment to the Accounting Department with a copy to the Debtor.

283 (d) Post Judgment Interest. Post Judgment interest must be applied to the amount
284 recovered from the date of the Judgment until the Garnishment Order is satisfied. The
285 post Judgment interest rate must be fixed for the duration of the Garnishment Order and
286 is determined by one (1) of the following:

287 (1) An agreement by the parties to the Garnishment as to a fair annual post
288 Judgment interest rate; or

289 (2) An annual post Judgment interest rate equal to one percent (1%) plus the
290 prime rate in effect on the date in which the Judgment was awarded, as reported
291 by the Federal Reserve Board in federal reserve statistical release H. 15.

292 58.5-6. Notice of Garnishment to Accounting Department. The Judiciary shall provide the
293 Accounting Department with a copy of the Garnishment Order after the timeframe for all appeals
294 has been exhausted.

295 58.5-7. Garnishment Implementation. Within ten (10) business days of receiving a copy of the
296 Garnishment Order the Accounting Department shall implement the Garnishment by:

297 (a) Deducting the appropriate amount from the Debtor's paycheck(s) and forward that
298 amount to the Creditor; and

299 (b) Notify the ~~employee~~Debtor and ~~creditor~~Creditor when the ~~garnishments are~~
300 ~~terminated~~Garnishment Order has been fulfilled.

301 58.45-8. Summary Process. ~~Where the claim of indebtedness is \$50.00 or less, it shall be~~
302 ~~processed~~The Judiciary shall summarily ~~by the Hearing Officer~~process Petitions when the
303 ~~Debtor owes fifty dollars (\$50) or less,~~ unless the ~~debtor~~Debtor formally requests a
304 ~~hearing~~Garnishment Hearing.

305 (a) For the purposes of this section, to summarily process a Petition means a Judge may
306 make a determination regarding the Garnishment Order without holding a Garnishment
307 Hearing.

308 58.45-9. Appeals. ~~A respondent has~~party may appeal the decision regarding a Garnishment
309 Order, provided that the appeal must be submitted within ten (10) business days from the date of
310 ~~receipt of the notice to file an appeal of a garnishment order~~the Judge's determination. The
311 appeal shall be filed with the Judiciary's Court of Appeals in accordance with the Judiciary Law
312 and any applicable rules and procedures.

313 58.45-10. Records. The ~~Hearing Officer~~Judiciary shall keep ~~complete~~ records of all
314 ~~garnishment~~Garnishment actions ~~that are started and/or completed.~~ The records ~~shall~~must
315 contain, at minimum:

- 316 (a) Correspondence and notices to all parties involved;
- 317 (b) Bookkeeping records;
- 318 (c) Garnishment evidence presented by all parties; and
- 319 (d) Decisions made by the ~~Hearing Officer~~Judge.

320
321 ~~58.5-1. Garnishment Action Fee. At the time of creditor's first notice to the Hearing Officer,~~
322 ~~the creditor shall pay a fee of \$25.00 which shall be known as the Garnishment Action Fee. The~~
323 ~~Hearing Officer is not required to begin any action on the claim until the fee is paid. The fee~~
324 ~~shall be charged to the respondent should a decision be made to garnish. The fee will be~~
325 ~~applicable in each case, except that in cases where indebtedness is with a department, program or~~
326 ~~enterprise of the Oneida Tribe.~~

327 ~~58.5-2. Administrative Fee. An administrative fee of \$5.00 shall be deducted monthly along~~
328 ~~with the ordered garnishment until the amount claimed is paid in full. This fee is to cover the~~
329 ~~cost of garnishing as expended by the Accounting Department.~~

330 58.5-3. Amount of Garnishment. ~~The Hearing Officer may order the employee's compensation~~
331 ~~to be subject to a garnishment of up to twenty percent of the employee's disposable weekly~~
332 ~~wage, the remainder to be identified as a protected subsistence allowance. Provided that, in~~
333 ~~calculating twenty percent, the Hearing Officer shall not include amounts garnished regarding~~
334 ~~child support orders. The employee may voluntarily request more to be deducted. The request~~
335 ~~shall be made directly to the Accounting Department.~~

336 58.5-4. Exceptions to 20 % Presumption. ~~It is presumed that the beginning amount to be~~
337 ~~deducted in any garnishment hearing shall begin at twenty percent of the employee's weekly~~
338 ~~wages. The respondent is responsible for presenting evidence that it is unreasonable to require~~
339 ~~the full twenty percent to be deducted. Examples of exceptions shall include, but not be limited~~
340 ~~to, pre-existing garnishment orders, child support orders that would leave less than 50% of the~~
341 ~~debtor's wages, other evidence presented which would cause garnishments such that additional~~
342 ~~garnishment orders would cause undue harm.~~

343

344 ~~58.6-1. Irrevocable Voluntary Payroll Deduction.~~ An employee may request an irrevocable
345 voluntary payroll deduction negotiated with a creditor for legal debts. The request must be
346 signed by the employee and submitted to the Accounting Department.

347 ~~58.6-2. Preemption of Garnishment Acton.~~ If the request is made prior to a garnishment action
348 decision or during a garnishment action:

349 (a) ~~The irrevocable voluntary payroll deduction request must be made to the Hearing~~
350 ~~Officer.~~

351 (b) ~~The Hearing Officer shall notify the creditor of the request.~~

352 (c) ~~If the parties agree, the Hearing Officer may then cancel the hearing, notify all parties~~
353 ~~and forward the executed agreement to the Accounting Department.~~

354 ~~58.6-3. Administrative Fee.~~ An administrative fee of \$5.00 shall be assessed monthly so long as
355 ~~the irrevocable voluntary payroll deduction is in effect.~~

357 ~~58.7-1. Recognition of Order~~ **Child Support Orders**

358 ~~58.6-1.~~ Orders for child support against any ~~employee shall~~ **Employee must** be recognized and
359 enforced, provided that the order has been issued from a court of competent jurisdiction.

360 ~~58.7-2.~~ Authenticity of Order. The ~~Hearing Officer shall~~ **Judiciary must** receive such **child**
361 **support** orders; and **shall** verify the authenticity of ~~the orders~~ **such orders**. Upon verification of the
362 child support order, the ~~Hearing Officer~~ **Judge** shall forward such order to the Accounting
363 Department for action.

364 ~~58.7-3.~~ Administrative Fee. An ~~administrative fee of \$5.00 shall~~ **Administrative Fee must** be
365 assessed monthly so long as the child support deduction is in effect.

367 ~~58.8-17.~~ **Discharge from Employment**

368 ~~58.7-1.~~ The ~~Oneida~~ Tribe shall not discharge ~~an employee because an employee is being~~
369 ~~subjected from employment, refuse~~ to ~~garnishment actions~~ **employ or otherwise take disciplinary**
370 **action against an Employee solely because the Employee is subject to a Garnishment action.**

371 ~~58.8-2. Jurisdiction.~~ ~~All creditor filing a garnishment action must sign a Jurisdiction~~
372 ~~Submission Statement. The statement will indicate that the creditor is submitting to the~~
373 ~~jurisdiction of the Oneida Tribe in that particular action.~~

374
375 *End.*

377 Adopted - BC-6-2-92
378 Adopted - BC-6-10-92
379 Adopted - BC-4-2-97-G
380 Amended - BC-06-25-14-B

Handout
1/20/16



Legislative Operating Committee January 20, 2016

Children's Code

Submission Date: September 17, 2014

Public Meeting:
 Emergency Enacted:

LOC Sponsor: Fawn Billie

Summary: *This item was carried over into the current term by the LOC. The proposal seeks to develop a Children's Code which would enable the Tribe to take jurisdiction of child welfare matters involving Tribal children. The proposal seeks establishment of a Child Welfare Office and the Oneida Child Protective Board, and would address child welfare proceedings including CHIPS; termination of parental rights; adoption; and foster home licensing.*

09/17/14 LOC: Motion by Fawn Billie to add the Children's Code to the Active Files List; seconded by Jennifer Webster. Motion carried unanimously.

Note: Fawn Billie will be the sponsor.

12/17/14 LOC: Motion by Jennifer Webster to move forward with requesting a fiscal analysis; seconded by Tehassi Hill.

Seconder withdraws the second, Motioner withdraws the motion; motion withdrawn.

Motion by Tehassi Hill to direct the Legislative Operating Committee Chair to work with the appropriate staff to develop a memorandum directing the Governmental Services Division Director to fulfill the Finance Department's request for information regarding the Children's Code in order to prepare the fiscal analysis; seconded by Fawn Billie. Motion carried unanimously.

1/28/15 OBC: Motion by Lisa Summers to direct the Law Office to create a policy statement and to request the Legislative Operating Committee consider the Children's Code a priority, seconded by Tehassi Hill. Motion carried unanimously.

2/18/15: Work meeting held with Social Services. Attendees include: Brandon Stevens, Fawn Billie, Tehassi Hill, Jessica Wallenfang, Fawn Cottrell, Taniquelle Thurner, Danelle Wilson, Michelle Mays, Rae Skenandore, Kathleen Laplant, Jennifer Kruse, Roxann Pazdera, Candice Skenandore, Lynn Franzmeier

04/15/15 LOC: Motion by Tehassi Hill to defer the Children's Code for 60 days for the fiscal and administrative analysis; seconded by Fawn Billie. Motion carried unanimously.

6/17/15 LOC: Motion by David P. Jordan to grant the 30-day extension requests and to accept the memorandum as FYI; seconded by Fawn Billie. Motion carried unanimously.

Handout 1/20/16

7/15/15 LOC: Motion by Fawn Billie to continue developing the Children's Code; seconded by David P. Jordan. Motion carried unanimously.

Next Steps:

- Accept the Children's Code Update and forward to the Business Committee.

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

P.O. Box 365
Oneida, WI 54155
(920) 869-4376
(800) 236-2214
<http://oneida-nsn.gov/LOC>



Committee Members

Brandon Stevens, Chairperson
Tehassi Hill, Vice Chairperson
Fawn Billie, Councilmember
David P. Jordan, Councilmember
Jennifer Webster, Councilmember

Memorandum

TO: Oneida Business Committee
FROM: Brandon Stevens, LOC Chairperson
DATE: January 27, 2016
RE: Children's Code Update

With adoption of the Judiciary Law and a Family Court, the Legislative Operating Committee (LOC) has been working on establishing a Children's Code. At a work meeting of the Oneida Business Committee (OBC) on January 5, 2016, the OBC directed the LOC to move forward with the Children's Code. The Committee set a tentative deadline of January 20, 2016 to finalize a copy of the Code and prepare for presentation to the public.

However, after a review of the nature of the Children's Code, the LOC has determined that there are a number of policy questions that still need to be resolved prior to the Children's Code being presented. Therefore, the LOC suggests the following schedule:

Work Meetings	February 2016
Public Meeting Date	May 5, 2016
Expected date of passage	June 8, 2016

Requested Action

Approve the Legislative Operating Committee's new schedule for the Children's Code.



LOC Update

2014-2017 Legislative Term: Halftime Report

In July of 2014, the Oneida Tribal membership elected nine members to the Oneida Business Committee (OBC) for the 2014-2017 term. The five non-officer members of the OBC also comprise the Legislative Operating Committee (LOC). The LOC's primary responsibility is processing all proposals to create, amend or repeal Tribal laws and policies, and then presenting the finished proposals to the OBC or to General Tribal Council to consider adopting. This halftime report shows what the LOC has accomplished during the first half of the term, as well as what the LOC will be working to complete during the second half of the term.

2 new Laws adopted, 10 Laws & Policies amended

New Laws

- ♦ A new **Leasing Law** was adopted by the OBC on May 13, 2015. (But due to federal requirements, this law will not go into effect until it is approved by the Secretary of the US Department of the Interior. The LOC is working with the Department of the Interior to ensure their requirements are met.)
- ♦ A new **Furlough Policy** was adopted by the OBC on November 10, 2015.

Amendments

- ♦ **Oneida Nation Gaming Ordinance**—9/9/15
- ♦ **Investigative Leave Policy**—6/24/15 and 8/13/14
- ♦ **Motor Vehicle Registration Law**—4/22/15
- ♦ **Rules of Appellate Procedure**—3/25/15
- ♦ **Marriage Law**—5/27/15
- ♦ **Real Property Law**—5/13/15
- ♦ **Public Use of Tribal Land Law**—12/10/14
- ♦ **Back Pay Policy**—8/13/14
- ♦ **Child Support Law**—8/13/14

19 Public Meetings Held

Before any proposal to adopt or amend a Tribal law or policy will be considered, a public meeting, including a public comment period, must be held. This term, the LOC has held 19 public meetings for legislative proposals.

The LOC publishes information about public meetings on the Oneida Register, including:

- ❖ Notice of upcoming public meetings, including the public meeting materials.
- ❖ A list of all public meetings held recently, including links to the public meeting materials and transcripts of the comments received at each public meeting.
- ❖ Information about what a public meeting is, and why they are held.
- ❖ Information about how to submit written comments.

Legislative Proposals: 69 items added to the Active Files List, 13 items completed

Since the beginning of the term, the LOC has added 69 items to the Active Files List—each item is a proposal to either develop a new Tribal law or policy; change an existing Tribal law or policy; or to change the bylaws governing a Tribal board, committee or commission.

So far, 13 of these items have been completed and removed from the Active Files List. The other 56 items are in different stages of the legislative process.

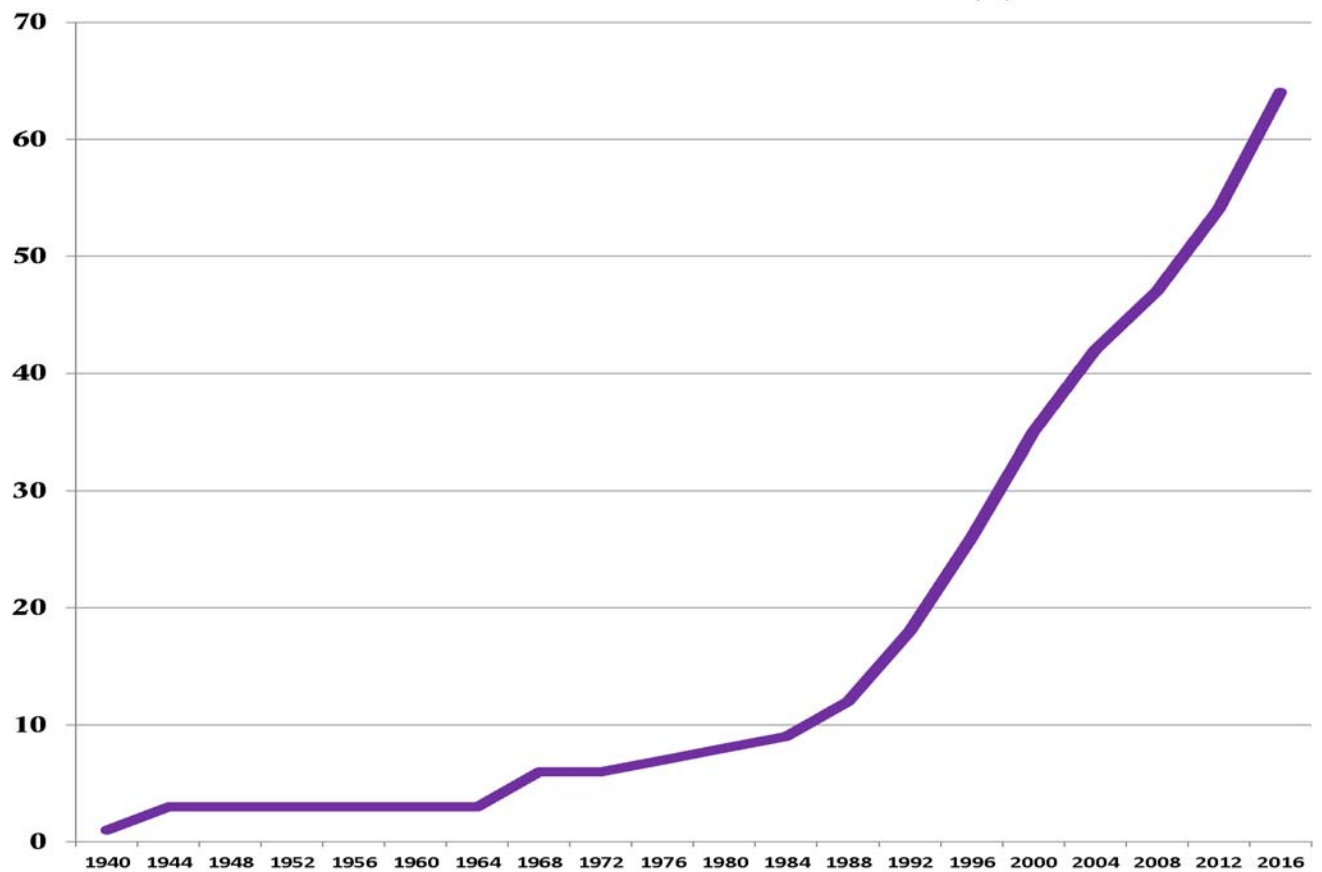
Additional items may be added to the Active Files List as the term progresses, and may be removed from the Active Files List upon completion, or if the LOC determines not to continue processing the item.

The LOC maintains and regularly updates legislative information on the Oneida Register—including notice of upcoming public meetings, a list of past public meetings (including transcripts), the Code of Laws and a list of Tribal policies, and a chronological listing of actions taken to adopt, amend or repeal Tribal laws. To learn more, please visit the Register at www.oneida-nsn.gov/register, or contact the Legislative Reference Office.

A look at our growth

A short 77 years ago, the Oneida Tribe of Indians of Wisconsin adopted its first law since becoming organized under the Oneida Constitution. In the years since then, many laws have been added, amended, repealed and superseded as the Oneida Nation continues to grow and evolve.

- Today, there are 64 laws in the Oneida Code of Laws, and an additional 28 policies in effect, including the Personnel Policies and Procedures, which have all been adopted by the OBC or GTC.
- Nearly 2/3 of all Tribal laws (41 total) have been written and added to the Code of Laws within the past 20 years.
- In the past 5 years alone, 11 new laws have been added to the Code of Laws.



The Legislative Operating Committee

The Membership is always welcome to contact any LOC member to discuss or learn about any legislation that the LOC member is sponsoring or to suggest future legislative changes. For general information, contact the Legislative Reference Office at (920) 869-4376 or email LOC@Oneidanation.org.

Brandon Stevens <i>LOC Chair</i> (920) 869-4378 BStevens@oneidanation.org <i>RC Metoxen</i> <i>Administrative Assistant</i> (920) 869-4469 RMetoxe2@oneidanation.org	Tehassi Hill <i>LOC Vice Chair</i> (920) 869-4420 RHill7@oneidanation.org <i>Danelle Wilson</i> <i>Administrative Assistant</i> (920) 869-4389 DWilson1@oneidanation.org	Fawn Billie <i>Councilmember</i> (920) 869-4428 FBillie@oneidanation.org <i>Nicolas Reynolds</i> <i>Administrative Assistant</i> (920) 869-4428 NReynold@oneidanation.org	David P. Jordan <i>Councilmember</i> (920) 869-4483 DJordan1@oneidanation.org <i>Leyne Orosco</i> <i>Administrative Assistant</i> (920) 869-4459 LOrosco@oneidanation.org	Jennifer Webster <i>Councilmember</i> (920) 869-4457 JWebste1@oneidanation.org
<p>Sponsored Items</p> <p>New Laws:</p> <ul style="list-style-type: none"> ♦ Eviction Law ♦ Budget Management & Control Law ♦ Employment Law ♦ Sanctions & Penalties Law ♦ OBC Meetings Law <p>Amendments to Existing Laws:</p> <ul style="list-style-type: none"> ♦ Family Court Law (Bench Warrants) ♦ Membership Ordinance ♦ Administrative Procedures Act ♦ Legislative Procedures Act 	<p>Sponsored Items</p> <p>New Laws:</p> <ul style="list-style-type: none"> ♦ Rulemaking Law ♦ Leasing Law ♦ Workplace Violence Policy ♦ Industrial Hemp Law ♦ Agricultural Law ♦ Environmental, Health & Safety Law <p>Amendments to Existing Laws:</p> <ul style="list-style-type: none"> ♦ Code of Ethics ♦ Law Enforcement Ordinance ♦ Election Law ♦ Domestic Animals Ordinance ♦ Hunting, Fishing, and Trapping Law 	<p>Sponsored Items</p> <p>New Laws:</p> <ul style="list-style-type: none"> ♦ Children's Code ♦ GTC Meetings Law ♦ Guardianship Law ♦ Research Protection Act ♦ Higher Ed. Scholarship Policy ♦ Severance Law <p>Amendments to Existing Laws:</p> <ul style="list-style-type: none"> ♦ Removal Law ♦ Marriage Law 	<p>Sponsored Items</p> <p>New Laws:</p> <ul style="list-style-type: none"> ♦ Secured Transactions ♦ Probate Law ♦ Mortgage Law ♦ Landlord-Tenant Law ♦ Compliance & Enforcement Law <p>Amendments to Existing Laws:</p> <ul style="list-style-type: none"> ♦ Back Pay Policy ♦ Real Property Law ♦ Public Use of Tribal Land ♦ Per Capita Law ♦ Community Support Fund ♦ Garnishment Law ♦ Rules of Civil Procedure ♦ Cemetery Law 	<p>Sponsored Items</p> <p>New Laws:</p> <ul style="list-style-type: none"> ♦ Employee Advocacy Law ♦ Fitness for Duty Policy ♦ Business Organizations Code ♦ Whistleblower Law ♦ Administrative Court ♦ Childcare Complaint Policy ♦ Violence Against Women Act ♦ Oneida Flag Policy ♦ Capping Damages & Awards from the Judicial System <p>Amendments to Existing Laws:</p> <ul style="list-style-type: none"> ♦ Audit Law ♦ Vehicle Driver & Fleet Management ♦ Vendor Licensing Law ♦ Comprehensive Policy Governing Boards, Committees and Commissions

Oneida Tribe of Indians of Wisconsin

Legislative Reference Office

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Committee Members

Brandon Stevens, Chairperson

Tehassi Hill, Vice Chairperson

Fawn Billie, Councilmember

David P. Jordan, Councilmember

Jennifer Webster, Councilmember

January 18, 2016

Dear Chairwoman Jourdan:

I am writing in response to the article published in the December 3, 2015 issue of the Kalihwisaks by the Personnel Commission regarding its interpretation of the impacts of the proposed Employment Law on Tribal employees.

I am disappointed to see an article published without any discussions with the Employment Law drafting team. The Personnel Commission has not spoken at any regularly scheduled LOC meetings when the Employment Law was on the agenda and never requested a meeting to discuss the intent and impact of the Employment Law with the drafting team.

The result is that you have published an article that will incite unnecessary and unfounded fear in Tribal employees. Of greatest concern are the Commission's statements surrounding At-Will employment. It is true that the new Employment Law will create a new category of At-Will Employees. However, the intent is to limit that class to a very small pool of persons anticipated to only be employed with the Tribe on a short-term basis. The definition in the current law is broader than what we intended and we thank you for pointing that out. That being said, it would have been much appreciated had the Commission participated in the drafting process to highlight this concern rather than immediately publishing in the Kalihwisaks. The draft of the Employment Law is just that, a draft and remains subject to change as we continue to receive valuable input from the employment base.

I would like to take this opportunity to invite the Oneida Personnel Commission to meet with the Employment Law drafting team to discuss the Commission's concerns related to the Employment Law and to allow the Commission to garner a better understanding of the true intent and implications of the Employment Law. If the Commission is interested in accepting this invitation, please contact the LOC Chairperson's legislative assistant, Rhiannon Metoxen via e-mail at rmetoxe2@oneidanation.org or via telephone at 920-869-4469 so that a meeting can be scheduled.

We are hopeful that moving forward the Commission will be open to working with the Employment Law drafting team to provide its valuable input through open dialogue and participation in the legislative drafting process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brandon Stevens', with a stylized flourish at the end.

Brandon Stevens, LOC Chairperson

January 2016

January 2016							February 2016						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
					1	2		1	2	3	4	5	6
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24	25	26	27	28	29	30	28	29					
31													

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	Dec 27	28	29	30	31	Jan 1, 16	2
12/27 - 1/1							
	3	4	5	6	7	8	9
1/3 - 8				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - L 9:00am 2:00pm LOC Meeting (BC_Conf_	9:00am 2:00pm Public Meeting - Administrative Procedures Act, Administrative Rule		
	10	11	12	13	14	15	16
1/10 - 15						10:00am 12:00pm LOC Work Meeting: Community Support Fund Policy Amendments Public	
	17	18	19	20	21	22	23
1/17 - 22				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar			
	24	25	26	27	28	29	30
1/24 - 29			1:30pm 3:00pm Fitness for Duty Policy - Work Meeting (BC_Exec_Conf_Room) - Douglass A. Mc				
	31	Feb 1	2	3	4	5	6
1/31 - 2/5							

February 2016

February 2016							March 2016						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
7	8	9	10	11	12	13	6	7	8	9	10	11	12
14	15	16	17	18	19	20	13	14	15	16	17	18	19
21	22	23	24	25	26	27	20	21	22	23	24	25	26
28	29						27	28	29	30	31		

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Jan 31	Feb 1	2	3	4	5	6	
Jan 31 - Feb 6				9:00am 2:00pm LOC Meeting (BC_Conf_Room) - L 9:00am 2:00pm LOC Meeting (BC_Conf_Room) - D			
7	8	9	10	11	12	13	
Feb 7 - 13	9:00am 2:00pm LOC Meeting (BC_Conf_Room) - Douglass A. McIntyre						
14	15	16	17	18	19	20	
Feb 14 - 20			9:00am 2:00pm LOC Meeting (BC_Conf_Room) - LOC_Calendar				
21	22	23	24	25	26	27	
Feb 21 - 27							
28	29	Mar 1	2	3	4	5	
Feb 28 - Mar 5							