

Oneida Nation

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Oneida, WI 54155

BC Resolution # 07-27-16-B Garnishment (Law) Amendments

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the previous version of this law allows the Judiciary to issue a garnishment order based on a creditor's judgment received from a court of competent jurisdiction; and
- WHEREAS,** the previous version of this law is silent as to whether post-judgment interest may be included in a garnishment order; and
- WHEREAS,** in order to compensate the creditor for the time and effort spent to enforce the judgment, the amendments to the law require the Judiciary to include post-judgment interest in the garnishment order; and
- WHEREAS,** the previous version of this law requires all creditors, including entities of the Nation, to receive a judgment from a court of competent jurisdiction prior to a garnishment, which requires the Nation's government to expend funds and staff time collecting the Nation's debt through the Judiciary; and
- WHEREAS,** in order to facilitate the collection of debts owed to the Nation, the amendments to the law revise the process for collection of debt owed to the Nation to allow for automatic garnishment upon satisfaction of the notice requirement without requiring a judgment from a court of competent jurisdiction or a garnishment order from the Judiciary; and
- WHEREAS,** debtors contesting the validity of a debt owed to the Nation may request a hearing with the Judiciary; under such circumstances a judgment is still not required, but the Nation may not garnish without a garnishment order from the Judiciary; and
- WHEREAS,** the previous version of this law sets the garnishment action fee at \$25.00 and the administrative fee at \$5.00, which requires the law be amended in order to change the fee; and
- WHEREAS,** in order to provide flexibility in the setting of fees, the amendments to the law remove the exact amount of the fees and instead authorizes the Judiciary to determine the garnishment action fee amount and the Accounting Department to determine the administrative fee amount so long as the fee amounts are posted at the Judiciary and on the Judiciary's website; and

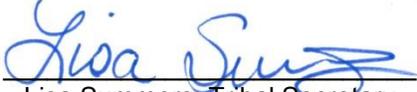
WHEREAS, the previous version of this law allows a debtor to be represented by another person to speak on their behalf; and

WHEREAS, in order to be consistent with the Rules of Civil Procedure, the amendments to the law limit representation to an attorney or advocate; and

NOW THEREFORE BE IT RESOLVED, that the amendments to the Garnishment (law) are hereby adopted and become effective in thirty (30) calendar days.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 6 members were present at a meeting duly called, noticed and held on the 27th day of July, 2016; that the forgoing resolution was duly adopted at such meeting by a vote of 4 members for, 0 members against, and 1 members not voting; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Tribal Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."