Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov

LEGISLATIVE OPERATING COMMITTEE MEETING AGENDA

Business Committee Conference Room - 2nd Floor Norbert Hill Center
November 18, 2026
9:00 a.m.

I. Call to Order and Approval of the Agenda

II. Minutes to be Approved

1. November 4, 2026 LOC Meeting Minutes (pg. 2)

III. Current Business

1. Probate Law (pg. 4)
2. Vendor Licensing Law Amendments (pg. 86)

IV. New Submissions

V. Additions

VI. Administrative Updates

VII. Executive Session

VIII. Recess/Adjourn

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LEGISLATIVE OPERATING COMMITTEE MEETING MINUTES

Oneida Business Committee Conference Room-2nd Floor Norbert Hill Center
November 4, 2026
9:00 a.m.

Present: Aliskwet Boylan, Kristal Hill, Lora Danforth
Excused: Jennifer Webster (personal time), Jonas Hill (approved travel)
Others Present: Clorissa Leeman, Grace Elliott, Carolyn Salutz, Susan House, Shawn Skenandore, Cynthia Soto
Others Present on Microsoft Teams: Ashley Blaker, Melissa Alvarado, Peggy Helm-Quest, Rhiannon Metoxen, Michelle Tipple, Katsitsiyo Danforth, Yohnehtote Danforth, Brittany Smith, David Jordan, Joel Maxam, Shoshana King, Thurston Denny, Ronald Van Schyndel, Barbara Truttmann, Kaylynn Biely, Isaiah Skenandore, Rae Skenandore, Sarah White, Quailen Thao, Kristin Jorgenson-Dann, Sidney White, Valerie Webster

I. Call to Order and Approval of the Agenda

Aliskwet Boylan called the November 4, 2026, Legislative Operating Committee meeting to order at 9:00 a.m.

Motion by Lora Danforth to adopt the agenda; seconded by Kristal Hill. Motion carried unanimously.

II. Minutes to be Approved

1. October 21, 2026 LOC Meeting Minutes

Motion by Kristal Hill to approve the October 21, 2026, LOC meeting minutes and forward to the Oneida Business Committee; seconded by Lora Danforth. Motion carried unanimously.

III. Current Business

1. Safe Neighborhoods Law

Motion by Kristal Hill to approve the updated public comment review memorandum, draft, and legislative analysis; seconded by Lora Danforth. Motion carried unanimously.

Motion by Kristal Hill to approve the fiscal impact statement request memorandum, and forward to the Finance Administration directing that a fiscal impact statement be provided by November 20, 2026; seconded by Lora Danforth. Motion carried unanimously.

IV. New Submissions

1. Hunting, Fishing, and Trapping Law Amendments

Motion by Lora Danforth to deny the request to add the Hunting, Fishing, and Trapping Law Amendments to the Active Files List; seconded by Kristal Hill. Motion carried unanimously.

Motion by Kristal Hill to forward a memo to the requester stating the comments will be reviewed at the Hunting, Fishing, and Trapping Law Amendments at the one year review; seconded by Lora Danforth. Motion carried unanimously.

V. Additions

VI. Administrative Updates

1. E-Poll Results: Approval of the LOC and LRO FY 2027 Annual Reports for GTC

Motion by Lora Danforth to enter in the record the results of the October 26, 2026, e-poll entitled, "Approval of the LOC and LRO FY 2027 Annual Reports for GTC"; seconded by Kristal Hill. Motion carried unanimously.

2. LOC Fiscal Year 2026 Fourth Quarter Report

Motion by Lora Danforth to approve the LOC Fiscal Year 2026 Fourth Quarter Report and forward to the Oneida Business Committee; seconded by Kristal Hill. Motion carried unanimously.

VII. Executive Session

VII. Adjourn

Motion by Kristal Hill to adjourn at 9:39 a.m.; seconded by Lora Danforth. Motion carried unanimously.

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Legislative Operating Committee
November 18, 2026

Probate Law Amendments

Submission Date: 7/14/22	**Public Meeting:** N/A
LOC Sponsor: Jonas Hill	**Emergency Enacted:** N/A

Summary: This item was carried over from last two (2) terms. On July 14, 2022, the Legislative Operating Committee received a request from Nicole Rommel with the Environmental Health Safety Land and Agriculture Division – more specifically Land Management for the development of a Probate law which would remove the probate provisions in the Real Property and instead create a stand-alone law.

The Oneida Business Committee adopted the Probate law on an emergency basis on April 22, 2026, through the adoption of resolution BC-04-22-26-E, and extended by resolution BC-10-14-26-D. The emergency adoption of the Probate law will expire on April 22, 2027.

10/4/23 LOC: Motion by Jennifer Webster to add the Probate Law to the Active Files List with Kirby Metoxen, Jameson Wilson, and Marlon Skenandore as the sponsors; seconded by Jonas Hill. Motion carried unanimously.

8/1/24: *Work Meeting*. Present: Krystal John, Nicole Rommel, Eric McLester, Cindy Lecker, Mark Powless, Grace Elliott, Carolyn Salutz. The purpose of this meeting was to begin the initial review of the draft probate law.

8/9/24: *Work Meeting*. Present: Krystal John, Nicole Rommel, Eric McLester, Cindy Lecker, Mark Powless, Grace Elliott. The purpose of this meeting was to finish the initial review of the draft probate law.

8/29/24: *Work Meeting*. Present: Jameson Wilson, Marlon Skenandore, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Fawn Cottrell, Kristal Hill, Maureen Perkins, Fawn Billie, Carolyn Salutz. The purpose of this work meeting was to practice the PowerPoint presentation for the September 4th LOC community meeting regarding the Limited Liability Company law and the Probate law.

8/29/24: *Work Meeting*. Present: Jameson Wilson, Marlon Skenandore, Kirby Metoxen, Jonas Hill, Jennifer Webster, Clorissa Leeman, Fawn Cottrell, Kristal Hill, Maureen Perkins, Carolyn Salutz. The purpose of this work meeting was to plan and discuss the September 4th LOC community meeting regarding the Limited Liability Company law and the Probate law.

9/4/24: *Community Meeting*. Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Clorissa Leeman, Fawn Cottrell, Fawn Billie, Kristal Hill, Maureen Perkins, Carolyn

A good mind. A good heart. A strong fire.

Salutz, Steve Webster, Sidney White, and others. The Legislative Operating Committee held a community meeting in the NHC's cafeteria from 5:30 p.m. through 7:30 p.m. regarding the Limited Liability Company law and the Probate law.

9/12/24: *Work Meeting*. Present: Grace Elliott, Carolyn Salutz, Cindy Lecker, Eric McLester, Nicole Rommel, Krystal John, Mark Powless. The purpose of this meeting was to review the draft probate law and discuss how the proposed foundational change in the default ownership mechanism in the Real Property draft will also have a significant impact on the foundation of probate and require a huge community education campaign.

10/18/24: *Work Meeting*. Present: Jameson Wilson, Jonas Hill, Marlon Skenandore, Clorissa Leeman, Carolyn Salutz, Kristal Hill, Fawn Billie, Fawn Cottrell, Maureen Perkins, Grace Elliott. The purpose of this meeting was to discuss the connection between the Holding of Ownership Section of the Real Property law and the draft Probate law.

11/4/24: *Work Meeting*. Present: John Danforth, Grace Elliott. The purpose of this meeting was to hear from Trust and Enrollment leadership on any considerations they would like for an Oneida probate law.

1/15/25: *Work Meeting*. Present: Jameson Wilson, Jonas Hill, Marlon Skenandore, Jennifer Webster, Kirby Metoxen, Clorissa Leeman, Carolyn Salutz, Kristal Hill, Fawn Billie, Fawn Cottrell, Maureen Perkins, Grace Elliott. The purpose of this meeting was to discuss next steps and who to reach out to collaborate with on the development of a probate law.

1/20/25: *Work Meeting.* Present: Layatalati Hill, Patricia Hoeft, John Powless, Stephanie Smith, Grace Elliott. The purpose of this meeting was to hear any considerations the Oneida Judiciary would like for an Oneida probate law.

2/5/25: *Work Meeting*. Present: Jameson Wilson, Jennifer Webster, Jonas Hill, Kirby Metoxen, Marlon Skenandore, Clorissa Leeman, Carolyn Salutz, Grace Elliott. The purpose of this meeting was to review the federal probate law process and the American Indian Probate Reform Act (AIPRA) as it applies to Oneida land held in trust or restricted fee status.

2/19/25: *Work Meeting*. Present: Jameson Wilson, Jennifer Webster, Kirby Metoxen, Marlon Skenandore, Clorissa Leeman, Carolyn Salutz, Grace Elliott, Fawn Cottrell, Kristal Hill. The purpose of this meeting was to review why it is not logical to move forward with the transfer of hearing authority for probates without a probate law.

2/27/25: *Work Meeting*. Present: Jameson Wilson, Jennifer Webster, Kirby Metoxen, Clorissa Leeman, Grace Elliott, Kristal Hill, Fawn Cottrell. The purpose of this meeting was to review principles of probate as they relate to tribal and federal probate of trust land, restricted fee, and fee lands.

4/1/25: *Work Meeting*. Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Kristal Hill, Fawn Cottrell, Nicole Rommel, Eric McLester, Mark Powless. The purpose of this work meeting was to meet with Land Management to have some

general discussion regarding the current probate process, and how they'd like to see probates handled in the future.

4/1/25: *Work Meeting*. Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Kristal Hill, Fawn Cottrell, Jo A. House, James Bittorf, Kelly McAndrews, Krystal John. The purpose of this work meeting was to meet with the Oneida Law Office to have some general discussion regarding the current probate process, and how they'd like to see probates handled in the future.

4/1/25: *Work Meeting*. Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Kristal Hill, Fawn Cottrell. The purpose of this work meeting was to meet with the Oneida Land Commission chairperson to have some general discussion regarding the current probate process, and how you'd like to see probates handled in the future. The Oneida Land Commission Chairperson did not attend the meeting, so the meeting was canceled.

4/2/25: *Work Meeting*. Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Clorissa Leeman, Kristal Hill, Fawn Cottrell, Grace Elliott, Carolyn Salutz. The purpose of this work meeting was to debrief on yesterday's various work meetings and determine the next steps for moving forward.

5/1/25: *Work Meeting*. Present: Jameson Wilson, Kirby Metoxen, Jonas Hill, Marlon Skenandore, Jennifer Webster, Clorissa Leeman, Fawn Cottrell, Kristal Hill, Fawn Billie. The purpose of this work meeting was to review the draft Probate law submitted by Attorney John based on the Fond du Lac law that has been federally approved.

3/19/26: *Work Meeting*. Present: Jameson Wilson, Kirby Metoxen, Jennifer Webster, Clorissa Leeman, Carolyn Salutz, Fawn Cottrell, Kristal Hill, Grace Elliott. The purpose of this meeting was to discuss options for fully removing probate provisions from the Real Property Law, to evaluate the impact of that change on the existing resolution governing probate for Oneida, and to identify mechanisms to ensure continued tribal authority and an effective process for administering probates through Oneida.

4/15/26 LOC: Motion by Jonas Hill to approve the emergency adoption packet for the proposed Probate law and forward to the Oneida Business Committee for consideration, seconded by Jennifer Webster. Motion carried unanimously.

4/22/26 OBC: Motion by Lawrence Barton to adopt resolution 04-22-26-E Emergency Adoption of Probate Law, seconded by Jennifer Webster. Motion carried.

6/18/26: Work Meeting. Present: Jonas Hill, Sidney White, Krystal John, Gina Powless Buenrostro, Jeri Bauman, Trisity Ackley, Clorissa Leeman, Fawn Cottrell, Grace Elliott. The purpose of this meeting was to begin review of the draft probate law. Next steps include: drafter making edits based on comments, scheduling meetings at two week intervals where possible, and the team will pick up review on page nine at the next meeting.

7/31/26: *Work Meeting*. Present: Jennifer Webster, Krystal John, Grace Elliott, Vanessa Cardish, Sidney White, Tricity Ackley, Eric McLester. The purpose of this meeting was to review the reorganized draft based on process flow rather than topic. The group provided many clarifying comments which will be incorporated into the draft, and we will pick up at the Wills section next time.

8/13/26: *Work Meeting*. Present: Jennifer Webster, Krystal John, Sidney White, Grace Elliott. The purpose of this meeting was to continue reviewing the draft Probate Law, with particular focus on the proposed Harmless Error Rule, Lost Will provisions, and reopening estates. After discussion, the group reached consensus to include each of these provisions in the draft. Members also provided comments aimed at improving readability and accessibility, generally encouraging revisions that make the law more user-friendly and easier to understand. The next meeting will be scheduled within the next two weeks and will resume review at § 613.17, Notice.

8/28/26: *Work Meeting*. Present: Judge Patricia Hoeft, Stephanie Smith, Grace Elliott. The Judiciary reviewed the proposed Probate Case Conference process. Based on concerns regarding implementation, training requirements, and administrative responsibilities, the preliminary recommendation was to replace the Probate Case Conference with an Initial Probate Hearing conducted by the Court. The Judiciary requested additional information regarding the volume of fee land probate matters in order to evaluate the effect this structure may have on judicial workload and court resources. Future revisions to the Probate Law may be necessary depending on the Judiciary's preferred role in the administration of uncontested probate matters.

9/1/26: *Work Meeting*. Present: Mark Powless, Krystal John, Tricity Ackley, Grace Elliott. The workgroup reviewed the revised, unified probate structure and the notice, creditor-claim, inventory, accounting, estate-closing, and small-estate provisions, identifying clarifying edits concerning responsibility for notice, persons entitled to notice, service methods, creditor-claim review, and access to estate information. The workgroup supported the ninety-day creditor-claim period, recommended distinguishing secured from unsecured claims in the payment priorities and requested clarification that a Personal Representative's allowance or disallowance of a claim is a preliminary decision subject to Court review. Further review was deferred on family-rights policy choices, including the elective share and related allowances, while follow-up was requested regarding legal assistance for probate matters, inactive estates in which the Personal Representative does not seek closure, and comparative options to present to the Legislative Operating Committee.

9/10/26: *Work Meeting*. Present: Chief Judge Powless, Judge Huff, Grace Elliott. The Judiciary received an update on the revised Probate Law structure, including the elimination of the Probate Case Conference and separate informal and formal proceedings in favor of a unified, court-centered probate process. The judges provided initial recommendations that the Initial Probate Hearing should be conducted within thirty (30) days after the petition is filed, rather than merely scheduled within that period. The judges also preliminarily recommended against bifurcating probate proceedings by staying only the issues referred to peacemaking while allowing the remainder of the estate to proceed, because managing separate tracks within the same probate matter may result in more confusion than benefit.

9/16/26: *Work Meeting*. Present: Chief Appellate Judge Hoeft, Chief Judge Powless, Stephanie Smith, Krystal John, Tricity Ackley, Grace Elliott. The workgroup reviewed the remaining policy questions and recommended retaining the current intestate spousal-share structure, removing the elective share, limiting the family allowance to one year, documenting exempt-property transfers by affidavit, and revising homestead protection to preserve necessary housing payments during administration. The workgroup further supported reducing Personal Representative compensation to two percent and using reasonable compensation for attorneys. Fee-land jurisdiction, adopted-child inheritance, contempt remedies, and enforcement of estate-property turnover orders were identified for additional legal or LOC review.

10/7/26 LOC: Motion by Lora Danforth to add the Probate Law to the Active Files List with Jonas Hill as the sponsor; seconded by Kristal Hill. Motion carried unanimously.

Motion by Jonas Hill to approve the emergency adoption extension packet for the Probate law and forward to the Oneida Business Committee for consideration; seconded by Kristal Hill. Motion carried unanimously.

10/12/26: *Work Meeting*. Present: Kristal Hill, Aliskwet Ellis, Susan House, Jennifer Webster Jonas Hill, Yohnehtote Danforth, Shoshana King, Clorissa Leeman, Rhiannon Metoxen, David Jordan, Grace Elliott, Krystal John, Stephanie Smith, Venessa Cardish, Tricity Ackley. LOC received an initial overview of the permanent Probate Law's principal policy questions, including the intestate spousal share, generational inheritance, family protections, adopted-child inheritance, and the proposed small-estate affidavit procedure. LOC expressed preliminary support for retaining the current Oneida intestate-spousal-share rule but requested additional practical and visual examples before selecting between branch-based inheritance and Draft 8's per-capita-at-each-generation method; the remaining questions will return during the complete section-by-section review.

10/14/26 OBC:Motion by Jennifer Webster to adopt resolution # 10-14-26-D Emergency Adoption of the Probate Law, seconded by Kristal Hill. Motion carried:

10/21/26: *Work Meeting*. Present: Aliskwet Ellis, Kristal Hill, Lora Danforth, Susan House, Carolyn Salutz, Clorissa Leeman, Grace Elliott, Shoshana King, David Jordan, Krystal John, Stephanie Smith, Tricity Ackley. The LOC began a line-by-line review of the draft permanent Probate law.

11/3/26: Work Meeting. Present: Aliskwet Ellis, Kristal Hill, Lora Danforth, Jonas Hill, Susan House, Clorissa Leeman, Grace Elliott, Shoshana King, David Jordan, Rhiannon Metoxen, Venessa Cardish, Krystal John, Stephanie Smith, Tricity Ackley, Peril Huff, Mark Powless, John Powless. LOC and the Probate workgroup conducted a detailed review of a substantial portion of the proposed Probate Law, stopping at the Inventory and Accounting provisions. LOC members actively engaged in the review, asked questions throughout, and decided to retain Oneida's current per stirpes, or branch-based, method of distribution rather than adopt the proposed per-capita-at-each-generation method. LOC determined that per stirpes

fairly preserves each child's family branch and honors established inheritance expectations, and that no sufficiently compelling broader policy objective had been identified to justify changing current Oneida practice; the drafting attorney will revise the proposed law accordingly.

11/4/26: *Work Meeting*. Present: Aliskwet Boylan, Kristal Hill, Lora Danforth, Shoshana King, Yohnehtote Danforth, Kristal John, Susan House, Stephanie Smith, David Jordan, Grace Elliott, Carolyn Salutz, Cynthia Soto, Tricity Ackely, Peril Huff, Clorissa Leeman. LOC and the Probate workgroup continued the section-by-section review of the proposed Probate Law, beginning with Inventory and Accounting and proceeding through Closing, Small Estates, Enforcement, Personal Representatives, Intestate Estates, Wills, and Probate of Wills before stopping at 613.16, Notice. LOC supported retaining appointment priority for adult children by age, treating all legally recognized siblings equally regardless of whether they share one or both parents with the Decedent, and clarifying the procedure by which a Personal Representative may resign. The drafting attorney will incorporate the requested clarification regarding resignation, and the group will resume its review at the Notice provisions with the goal of completing the second read through at the next meeting.

11/9/26: *Work Meeting.* Present: Aliskewet Boylan, Kristal Hill, Lora Danforth, Jonas Hill, Carolyn Salutz, Krystal John, Trisity Ackley, Shoshana King, Susan House, Rhiannon Metoxen, Stephanie Smith, Yohnehtote Danforth, Grace Elliott. The Probate Law Workgroup completed its second comprehensive review of the draft Probate Law, focusing on notice requirements, creditor claims, family rights, estate administration procedures, and resignation of personal representatives, while making several substantive revisions to improve clarity, practicality, and administration of probate proceedings. The workgroup discussed the scope of tribal probate jurisdiction, particularly as it relates to residential leases on tribal trust and fee lands, agreed to revise publication requirements from three postings to two designated places of prominence, and confirmed additional protections and procedures relating to notice, creditor claims, and fiduciary responsibilities. Members concluded that the draft is substantially complete and recommended advancing the law through the legislative process, with the next steps including LOC consideration, public meeting planning, and eventual public comment.

Next Steps:

- Approve the draft Probate law amendments and direct that a legislative analysis be completed.

Title 6. Property and Land – Chapter 613
PROBATE

613.1. Purpose and Policy
613.2. Adoption, Amendment, Repeal
613.3. Definitions
613.4. Construction
613.5. Jurisdiction
613.16. Notice613.1. Purpose and Policy
613.4. Application
613.2. Adoption, Amendment, Repeal
613.3. Definitions
613.12. Personal Representatives
613.13. Intestate Estates
613.14. Wills
613.15. Probate of Wills
613.5. Jurisdiction
613.6. Disposition of Estates of Deceased Tribal Members

613.6. Application and Property Classification
613.7. Effects of Fraud and Evasion
613.8. Evidence as to Death or Status
613.9. Commencement of Probate Proceedings
613.10. Initial Probate Hearing
613.11. Proceedings Following Initial Probate Hearing
613.17. Creditors and Claims
613.18. Family Rights
613.19. Inventory and Accounting
613.20. Closing of Estate and Discharge
613.21. Small Estate Procedure
613.22. Enforcement of Probate Orders

613.1. Purpose and Policy

613.1-1. *Purpose.* The determination of how property is disposed of upon a person's passingdeath is an inherent exercise of self-governance crucial to the Nation's sovereignty. and right of self-governance. The purposes of this Lawlaw are accordingly:to:

(a) To ensure the orderly and lawful transfer of a Decedent's property of Decedents passes to the rightful heirs or beneficiaries;

(b) To comply with honor and give effect to the Decedent's wishes as much as possible; expressed intent to the greatest extent permitted by law;

(c) To comply with tribal custom and tradition; incorporate and uphold Oneida customs, traditions, and cultural values in the administration of estates;

(d) To provideestablish a simpleclear, efficient, and inexpensive method cost-effective process for probating the Decedent's the administration and probate of estates;

(e) preserve and protect Oneida land and property;

(e) To prevent the transfer of land out of tribal interests by favoring continued ownership andor control; and

(f) To ensure by the rights of creditors of Decedents are protectedNation or Oneida citizens to the fullest extent possible andpermitted by applicable law; and

(f) provide a fair and balanced process for the identification and satisfaction of legitimate creditor claims.

613.1-2. *Policy.*

(a) It is the policy of the Nation to set out a probate process that is easy for Tribal members to engage with to the extent terminology and process can be simplified and which ensures that that lands owned by Tribal membersOneida citizens at the time of their death shall, to the fullest extent permitted by applicable law, remain inunder the ownership or control of a Tribal member or the Nation to the extent permitted by law,or Oneida citizens.

(b) The administration of this law shall be guided by the principles of the Good Mind, as expressed by Onʌyoteʔaˑká, ensuring that probate processes are carried out in a manner that reflects the Nation's values, promotes harmony, and sustains community well-being.

(c) The principles of the Good Mind include:

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(1) Kahletsyalúsla. The heartfelt encouragement of the best in each of us.
(2) Kanolukhwásla. Compassion, caring, identity, and joy of being.
(3) Ka?nikuhli·yó. The openness of the good spirit and mind.
(4) Ka?tshatstʌ́sla. The strength of belief and vision as a People.
(5) Kalihwi·yó. The use of the good words about ourselves, our Nation, and our future.
(6) Twahwahtsílayʌ. All of us are family.
(7) Yukwatsístayʌ. Our fire, our spirit within each one of us.

(d) These principles shall inform the interpretation and implementation of this law to ensure that probate proceedings reflect not only legal standards, but also the cultural integrity and collective values of the Nation.

613.2. Adoption, Amendment, Repeal

613.2-1. This law was adopted by the Oneida Business Committee by resolution BC-04-22-26-E, extended by resolution BC-10-14-26-D, and amended by resolution BC-XX-XX-XX-X.

613.2-2. This law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

613.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

613.2-4. In the event *Conflicts and Order of Priority.*

(a conflict between a provision of) Applicable federal law controls over this law and ato the extent of any conflict.

(b) This law controls over any conflicting provision of another law, of the provisions of this law shall controlNation with respect to probate matters governed by this law, unless the other law expressly provides otherwise.

(a)To c) A will, agreement, beneficiary designation, or other probate or estate-planning document is enforceable only to the extent that it is consistent with this law conflicts with anyand applicable federal statutes or regulations, the federal statute or regulation controlslaw.

(b) To the extent that any probate document, agreement or order to which this law applies conflicts with this law, this law controls.

(d) The validity or effect of an order entered in a probate proceeding shall be addressed through reconsideration, appeal, or other judicial relief available under the Judiciary Law.

613.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

613.3. Definitions

613.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Nation" means the Oneida Nation.
(b) "Tribal member" means an enrolled member of the Oneida Nation.
(a) "Administration expenses" means costs reasonably incurred in administering an estate, including Court costs, filing fees, attorney fees, Personal Representative compensation, appraisal costs, accounting costs, publication expenses, expenses necessary to preserve estate assets, and reasonable mortgage, lease, insurance, tax, and utility payments necessary to preserve an estate residence under section 613.18-5.
(b) "Administration of an estate" means the acts undertaken by a Personal Representative to collect, manage, preserve, value, protect, distribute, and otherwise settle estate property. Administration of an estate does not include the Court's determination of probate matters or the Court Clerk's performance of ministerial and case-management functions.

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~~(c)~~ (c) "Beneficiary" means ~~any~~a person ~~for whose~~ entitled to receive or benefit ~~property is held~~from property under a will, governing instrument, Court order, or other transfer governed by this law.

(d) "By right of representation" or "per stirpes" means a method of distributing property among descendants under which each surviving child and each deceased child who left one or more surviving descendants represents one equal family branch. A deceased child's branch share passes to that child's surviving descendants and is divided among them in the same manner at each succeeding generation under section 613.13-5.

(e) "Child" ~~includes any~~means a natural child and ~~any~~a child ~~formally~~ adopted ~~in accordance with 25 U.S.C. § 372a. An individual is the "child" of his or her natural parents regardless of their marital status.~~under applicable law.

(1) An adopted individual is the ~~"~~child~~"~~ of ~~*both* his or her adopting~~the adoptive parent or parents ~~*and* of his or her~~for all purposes under this law.

(2) An adopted individual may inherit from and through the individual's natural parent or parents unless otherwise provided by a valid governing instrument.

~~(d)~~ (3) A natural ~~parents~~parent whose parental rights were terminated before the child's death may not inherit from or through the child and shall be treated as having predeceased the child.

(4) Termination of a natural parent's right to inherit from or through the child does not terminate the child's right to inherit from or through the natural parent.

(5) A customary adoption documented or otherwise recognized by the Nation may establish a parent-child relationship for purposes of this law upon a finding by the Court that recognition is consistent with Oneida custom and the purposes of this law.

(f) "Court" means the Oneida Trial Court.

~~(e)~~ (g) "Covered permanent improvements" means buildings, other structures, and associated infrastructure attached to trust or restricted land, as well as any interests in such improvements.

(h) "Decedent" means a person who has died~~; a Decedent may have died with~~, whether testate or ~~without~~ intestate.

~~(f)~~ (i) "Descendant" means a child of an individual or a ~~valid will. The term 'testator' is often used to refer to a Decedent who has died with a valid will. In this law, the term 'Decedent' includes 'testator'~~child of that child in any succeeding generation.

~~(g)~~ (j) "Devise" means a gift of property by will or to give a gift of property by will.

~~(h)~~ (k) "Devisee" means a person or entity designated in a will to receive a devise.

~~(i)~~ (l) "Escheat" means reversion of property to the Nation because no valid heir or person to inherit exists.

~~(j)~~ (m) "Estate" means ~~the total~~all property ~~that is~~ owned by a Decedent at the time of ~~their~~ death and ~~prior~~subject to ~~the~~ administration or distribution ~~of that property in accordance with the terms of~~under a ~~will, or when there is no will or~~ valid will~~,~~ or, to the extent not effectively disposed of by ~~the requirements of~~a valid will, under this law.

(n) "Good cause" means a substantial reason supported by facts demonstrating that the requested action is necessary to promote fairness, protect interested persons, preserve estate assets, or facilitate efficient administration.

~~(k)~~ (o) "Heir" means any person who is entitled under the law governing intestate succession to an interest in the property of a Decedent.

(p) "Interested Person" means a person whose property rights, financial interests, or other legally protected interests may be affected by a probate proceeding. The term includes:

(1) heirs;

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(2) beneficiaries and devisees;
(3) Personal Representatives and nominated Personal Representatives;
(4) creditors;
(5) persons with an ownership, possessory, or contractual interest in estate property; and
(6) any other person determined by the Court to have a sufficient interest in the estate or proceeding.

~~(l)~~ (q) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying without leaving a valid will effectively disposing of all the estate.

~~(m)~~ (r) "Intestate succession" means succession to property of a Decedent who dies intestate or partially intestate.

~~(n)~~ (s) "Issue" means an individual's descendants, including children, grandchildren, ~~lineal descendants of more remote degree, except those who are the lineal~~ great-grandchildren, and descendants ~~of living descendants. The term includes adopted children and non-marital children whose paternity has been established and their~~ in succeeding generations. Property passing to issue~~.~~

~~(o)~~ ~~"Judiciary" means the judicial system that was established~~ by ~~Oneida General Tribal Council resolution GTC-01-07~~ right of representation shall be distributed per stirpes under section 613.13-~~B to administer the judicial authorities and responsibilities of the Nation~~5.

~~(p)~~ (t) "Life estate" means an interest in property held for only the duration of a designated person's life.

(u) "Nation" means the Oneida Nation.

(v) "Oneida citizen" means an enrolled member of the Nation.

~~(q)~~ (w) "Personal property" means ~~all non-trust~~ property other than real property and does not include trust or restricted land. Personal property may include a permanent improvement, possessory interest, leasehold interest, residential lease, or other separately owned interest located on trust, restricted, or Nation-owned land.

~~(r)~~ (x) "Personal Representative" means ~~the~~a person or entity appointed by the Trial Court to ~~oversee the probate process~~administer an estate. A Personal Representative nominated in ~~accordance with the Decedent's wishes. The personal representative~~ a will is ~~either~~commonly referred to as an executor. A Personal Representative appointed ~~in the Decedent's will or if the~~when a Decedent dies without a ~~will by the Judiciary. A personal representative appointed in the Decedent's~~valid will is ~~often called the 'Executor'. A personal representative appointed by the Judiciary when the decedent dies without is often called the 'Administrator'.~~commonly referred to as an administrator. In this law~~the term personal representative refers to~~, "Personal Representative" includes both ~~Executor~~an executor and ~~Administrator.~~ an administrator.

~~(s)~~ (y) "Probate" means a general term for the entire process of administration of estates of deceased persons, including those without wills.

~~(t)~~ (z) "Property" means any interest, legal or equitable, in real or personal property, without distinction as to kind.

~~(u)~~ (aa) "Real property" means ~~all~~any legal or equitable interest in land~~,~~ including ~~improvements~~an improvement that ~~have been affixed to~~is legally part of the land.

~~(v)~~ (bb) "Reservation" means all the property within the exterior boundaries of the Reservation of the ~~Oneida~~ Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.

(cc) "Spouse" means a person who, at the time of the Decedent's death, was:

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~~(w)~~ (1) married to the Decedent ~~or in a registered domestic, partnership with the Decedent~~ under the Marriage Law or under the laws of another jurisdiction~~.~~; or

(2) a party with the Decedent to a domestic partnership or substantially similar legal relationship validly established under the laws of the Nation or another jurisdiction and recognized for inheritance or probate purposes under the law of the jurisdiction in which the relationship was established.

(dd) "Testator" means a person who makes or has made a will.

(ee) "Trial Court" means the Oneida Trial Court that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

~~(x)~~ (ff) "Trust or restricted land" means land, or an interest therein, title to which is held by the United States in trust for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation.

~~(y)~~ (gg) "Will" means a written document executed with the required formalities and intended to facilitate the passage of the Decedent's property. The required formalities may be provided by this ~~Law~~law, federal law, or both this ~~Law~~law and federal law.

613.4. ~~Application~~ Construction

613.4-1. ~~**This law shall apply to enrolled tribal members, their spouses, and their children residing on the reservation, all enrolled members, or persons eligible for enrollment, or persons who at the time of their death owned real property on land owned by the Nation within the exterior boundary of the Oneida Nation reservation.**~~ This law shall be liberally construed to effectuate its purposes and to promote the orderly and equitable administration of estates. Where a valid will exists, the provisions of this law shall be interpreted to give effect to the Decedent's lawful intent to the fullest extent permitted by applicable law. Where no valid will exists, this law shall be construed to ensure distribution in accordance with its intestate succession provisions.

613.4-2. *Reference to Other Laws*. In the absence of controlling provisions in this law, the Trial Court may apply applicable federal law, the laws of other tribal nations, the law of the State of Wisconsin, and generally recognized principles of common law, including uniform or model probate laws, provided such application is consistent with this law and the Nation's sovereignty.

613.5. Jurisdiction

~~613.5-1. *Non-trust property*. The Nation shall have jurisdiction to administer in probate the estate of a Decedent who is an enrolled tribal member, or the spouse or child of an enrolled member at the time of their death, and the estate of a decedent who at the time of their death resided or had an interest in personal and real property located within the exterior boundary of the Reservation to the extent that such estate consists of non-trust property that is not subject to the exclusive jurisdiction of the United States.~~

~~613.5-2. *Trust property*. The Nation asserts inherent authority to probate and administer trust and restricted property of a Decedent who is an enrolled member of the Nation, or the spouse or child of an enrolled member, to the fullest extent permitted under federal law. The Nation shall exercise such jurisdiction concurrently with the United States where allowed, and independently where federal law does not expressly vest exclusive jurisdiction in the United States. Nothing in this section shall be construed as a waiver of the Nation's sovereign authority or as limiting the Nation's right to administer trust or restricted property except where exclusive federal jurisdiction is clearly established by federal law.~~

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~~**613.6. Disposition of Estates of Deceased Tribal Members.**~~

~~613.6-1. The purpose of this section is to formalize laws to handle the disposition of deceased tribal members' trust property, with or without a will. The intent of this section is to provide procedures which make it possible for equitable and fair decisions to be made for the surviving family, as well as promoting ongoing peace and harmony within the community.~~

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

~~(b) Tribal members holding trust land within the reservation shall use the laws and procedures of this Section.~~

~~613.6-2. Non-members of The Oneida Tribe and non-citizens of the United States cannot acquire Trust land through inheritance. Where interests are specifically devised to individuals ineligible to inherit the following options are provided:~~

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

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

~~613.6-3. Interests~~613.5-1. The Oneida Trial Court has jurisdiction over probate matters arising under this law.

613.5-2. Jurisdiction under this law may be established by:

(a) the status of the Decedent as an enrolled Oneida citizen residing on the Oneida Reservation at the time of death;

(b) the Decedent's ownership of, or interest in, a permanent improvement, possessory interest, leasehold interest, residential lease, or other property interest located on Nation-owned land or otherwise subject to the Nation's jurisdiction, regardless of whether the Decedent is an enrolled member of the Nation; or

(c) both.

613.5-3. The jurisdictional bases identified in section 613.5-2 are independent of one another. Jurisdiction under this law does not require that more than one jurisdictional basis apply.

613.5-4. *Authority of the Court*. In exercising jurisdiction under this law, the Oneida Trial Court may:

(a) appoint Personal Representatives;

(b) determine heirs, beneficiaries, and devisees;

(c) determine the validity and effect of wills;

(d) conduct probate hearings and determine matters arising in probate proceedings;

(e) approve distributions of estate property;

(f) determine the ownership and valuation of estate property when disputed; and

(g) adjudicate matters involving permanent improvements, possessory interests, leasehold interests, residential leases, and other property interests subject to the Nation's jurisdiction.

613.5-5. *Trust and Restricted Land; Federal Jurisdiction*.

(a) The probate of trust or restricted land and trust personalty, including Individual Indian Money (IIM) accounts, is governed exclusively by applicable federal law.

(b) The Trial Court has no jurisdiction over the probate, descent, devise, or distribution of trust or restricted land or trust personalty except as expressly authorized by federal law.

(c) This law applies only to the extent consistent with applicable federal law and shall not be interpreted to alter, supersede, or affect the federal administration or probate of trust or restricted land or trust personalty.

(d) A person who qualifies as an heir, beneficiary, or devisee under this law may nevertheless be ineligible to inherit trust or restricted land or trust personalty if federal law limits or

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restricts inheritance of that interest. Eligibility to inherit trust or restricted land or trust personalty shall be determined in accordance with applicable federal law.

613.6. Application and Property Classification

613.6-1. *Applicability*. This law applies to estates over which the Oneida Trial Court has jurisdiction under section 613.5.

613.6-2. *Missing Heirs* ~~who~~. If, after reasonable diligence, an heir cannot be ~~found will be sold to the Oneida Tribe~~located, the Court may take appropriate action to protect the interests of the estate and all interested persons. Such action may include:

(a) holding the interest in trust, reserve, or other protected status pending identification or location of the heir;

(b) authorizing distribution of estate property to other eligible heirs while reserving the missing heir's interest or proceeds attributable to that interest;

(c) authorizing the sale or transfer of the interest to the Nation or to an eligible heir at fair market value, ~~or to an eligible heir, and~~where the ~~money returned to~~Court determines such action is in the best interest of the estate ~~for distribution.~~; or

~~613.6-4. In the absence of~~ (d) any ~~heir or devisee, interests will~~ other equitable remedy consistent with this law.

(e) Proceeds attributable to a missing heir shall be preserved for five (5) years after entry of the final order of distribution. The missing heir may claim the proceeds during that period upon proof of entitlement. If no valid claim is made within five (5) years, the proceeds shall escheat to the ~~Oneida Tribe of Indians of Wisconsin~~Nation unless the Court orders otherwise for good cause.

~~613.6-5. Personal~~ (f) This section does not apply to trust or restricted property except as permitted by federal law.

613.6-3. ~~which does not come under~~ *Escheat.* In the ~~guidelines~~absence of an heir or devisee entitled to receive estate property, the property shall escheat to the Nation.

613.6-4. ~~this Law;~~ *Distribution of Certain Personal and Cultural Property*.

(a) Personal property not otherwise governed by this law, including low-value personal property, may be distributed ~~at the~~ by the family in accordance with custom and practice without appointment of a Personal Representative or further probate proceedings.

(b) Culturally significant property, including ceremonial items, regalia, heirlooms, traditional ~~ten day meal by family members,~~artifacts, and other cultural property, may be distributed by the family before completion of the probate proceeding in accordance with the customs and traditions of the Nation, to the extent consistent with the Decedent's known wishes, or, if such wishes are unknown, in a manner consistent with the customs and traditions of the Nation.

(c) A person distributing property under this section shall document the transfer by a Transfer by Affidavit filed with the Oneida Register of Deeds on a form approved by the Court if:

(1) the property is culturally significant;

(2) title, registration, or proof of ownership is ordinarily required to transfer the property;

(3) the aggregate fair market value of property transferred to a recipient exceeds one thousand dollars ($1,000); or

(4) the Court otherwise requires documentation.

(d) The affidavit shall identify the Decedent, describe the property, identify the recipient, state the date of transfer, and be signed by the person making the transfer.

(e) Failure to file an affidavit does not determine ownership of disputed property or protect a

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person who transferred property without lawful authority.

(f) Property may not be distributed under this section in a manner that impairs an exempt-property right under section 613.18-6 or a valid ownership interest of another person.

613.6-5. *Preference for Retention of Oneida Lands*. In administering estates involving fee lands within the Reservation owned by Oneida citizens, the Court shall favor distributions, settlements, and partitions that preserve ownership and control by the Nation or Oneida citizens whenever reasonably possible and consistent with law.

613.7. Effects of Fraud and Evasion

613.7-1. Whenever fraud has been perpetrated in connection with a proceeding under this law or used to avoid or circumvent this law, a person injured thereby may obtain appropriate relief against the person who committed the fraud.

(a) An action under this section against a person who committed the fraud must be commenced within two (2) years after the fraud is discovered or reasonably should have been discovered.

(b) An action under this section against a person who benefited from the fraud but did not participate in, direct, or knowingly assist in the fraud must be commenced not later than five (5) years after the fraudulent act occurred, regardless of when the fraud is discovered.

(c) The five (5) year limitation applicable to innocent beneficiaries does not apply to a person who committed, directed, concealed, or knowingly participated in the fraud.

(d) This section does not affect remedies relating to fraud committed against a Decedent during the Decedent's lifetime that affected the succession of the Decedent's estate.

613.7-2. The remedies provided by this section are cumulative and are in addition to any other remedies available under this law or other applicable law.

613.8. Evidence as to Death or Status

613.8-1. In proceedings under this law, death and status may be established as follows:

(a) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie proof of the fact, place, date, and time of death and the identity of the Decedent;

(b) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that a person is missing, detained, dead, or alive, is prima facie evidence of the status and of the dates, circumstances, and places disclosed by the record or report;

(c) A person who is absent for a continuous period of five (5) years, during which the person has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is presumed to be dead. The person's death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

613.9. Commencement of Probate Proceedings

613.9-1. *Commencement*. A probate proceeding is commenced by filing a petition with the Trial Court requesting one or more of the following:

(a) appointment of a Personal Representative;

(b) determination of heirs, beneficiaries, or devisees;

(c) admission of a will to probate;

(d) distribution of a Decedent's estate; or

(e) such other relief as may be appropriate under this law.

613.9-2. *Contents of Petition*. The petition shall include, to the extent known:

~~(a) Clothing.~~(a) the identity of the Decedent;

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(b) the date and place of death;
(c) the Decedent's last known domicile or residence;
(d) the names and addresses of known heirs, beneficiaries, devisees, and other interested persons;
(e) a general description of the estate property;
(f) the identity of any proposed Personal Representative;
(g) whether the Decedent died testate or intestate;
(h) if a will is offered for probate, the original will or an explanation of its unavailability; and
(i) the relief requested.

613.9-3. *Review of Petition*. Upon filing, the Court shall assign a case number and review the petition for completeness. The Court Clerk may require additional information or documentation reasonably necessary to:
(a) identify interested persons;
(b) determine jurisdiction;
(c) determine the existence and nature of estate property; and
(d) facilitate administration of the estate.

613.9-4. *Initial Probate Hearing*. Unless otherwise provided by this law or ordered by the Court, each probate proceeding shall begin with an Initial Probate Hearing conducted in accordance with section 613.10.

613.9-5. *Unified Probate Proceeding*. A probate matter commenced under this law is a single proceeding governing the administration and distribution of the Decedent's estate. The Court may conduct additional hearings and issue orders as necessary to determine matters arising during administration of the estate.

613.9-6. *Further Proceedings*. No separate petition is required for the determination of heirs, admission of a will, appointment of a Personal Representative, distribution of estate property, or other relief within the scope of a pending probate proceeding. A party requesting relief shall file any motion, objection, or other document required by this law or Court rule and provide notice as required by section 613.16.

613.9-7. *Forms and Administrative Procedures.* The Trial Court may develop and approve forms, filing requirements, case-management procedures, and administrative practices necessary to implement this law, consistent with applicable law.

613.10. Initial Probate Hearing

613.10-1. *Scheduling.*
(a) Except as provided in subsection (b), the Court shall conduct an Initial Probate Hearing within thirty (30) days after the petition is filed unless extraordinary circumstances require a later hearing date.
(b) If publication is required under section 613.16-5(d), the Court shall conduct the Initial Probate Hearing on the earliest practicable date that is at least fourteen (14) calendar days after the required notice is first published and posted.
(c) If the Initial Probate Hearing is conducted more than thirty (30) days after the petition is filed, the Court shall state the reason for the later hearing date in the record.

613.10-2. *Notice*. Notice of the Initial Probate Hearing shall be provided in accordance with section 613.16 to:
(a) the petitioner;
(b) any proposed or nominated Personal Representative;
(c) known heirs, beneficiaries, and devisees;
(d) persons having a known ownership, possessory, or contractual interest in estate property;

and
(e) any other interested person identified by the Court.

613.10-3. *Purpose*. At the Initial Probate Hearing, the Court may:
(a) determine whether the Court has jurisdiction;
(b) determine whether notice has been properly provided;
(c) identify heirs, beneficiaries, devisees, and other interested persons;
(d) determine whether the Decedent died testate or intestate;
(e) admit a will to probate when its validity is established and no objection requiring further proceedings has been raised;
(f) appoint a qualified Personal Representative who is willing to serve;
(g) determine whether a bond is required;
(h) identify and classify known estate property;
(i) identify objections, contested matters, or issues requiring additional evidence;
(j) advise interested persons of the availability of peacemaking and mediation pursuant to section 801.6 of the Judiciary Law;
(k) establish deadlines for inventory, notice to creditors, accountings, or other filings consistent with the deadlines and extension standards established by this law; and
(l) issue any interim or procedural order necessary to facilitate administration of the estate.

613.10-4. *Initial Probate Order*. Following the Initial Probate Hearing, the Court shall enter an order addressing the matters determined at the hearing. The order may:
(a) admit a will to probate;
(b) determine heirs, beneficiaries, or devisees to the extent supported by the available record;
(c) appoint the Personal Representative and direct issuance of Domiciliary Letters upon qualification under section 613.12-2;
(d) require a bond;
(e) establish deadlines for administration of the estate consistent with the deadlines and extension standards established by this law;
(f) identify matters reserved for later determination;
(g) stay the probate proceeding to allow peacemaking or mediation when the Court determines that a stay will facilitate resolution without creating undue delay or risk to estate property;
(h) during a stay, authorize acts necessary to preserve estate property, pay priority expenses, maintain insurance, comply with tax obligations, or prevent material loss; and
(i) grant other relief appropriate at that stage of the proceeding.

613.10-5. *Unresolved or Contested Matters*. If an objection or contested matter cannot be resolved at the Initial Probate Hearing, the Court may:
(a) establish a briefing or discovery schedule;
(b) schedule an evidentiary or other hearing;
(c) refer the parties to peacemaking or mediation with their consent;
(d) enter temporary or protective orders; or
(e) take any other action necessary to resolve the matter and protect the estate and interested persons.

613.11. Proceedings Following Initial Probate Hearing

613.11-1. *Administration Following Appointment*. After appointment, the Personal Representative shall administer the estate in accordance with this law, the Decedent's valid will, and orders of the Court.

613.11-2. *Ministerial and Case-Management Functions*. Consistent with Court rules and the

direction of the Court, the Court Clerk may:

(a) review filings for completeness;

(b) request required information or documentation;

(c) issue notices and schedule hearings;

(d) receive and maintain inventories, accountings, creditor claims, proofs of notice, and other filings;

(e) calculate or collect authorized filing fees;

(f) maintain the probate record;

(g) provide parties with Court-approved forms and procedural information;

(h) refer filings requiring action to the Court; and

(i) perform any other ministerial or case-management function authorized by Court rule or order.

613.11-3. *Judicial Determinations*. The Court shall determine:

(a) the validity and admission of a will;

(b) heirship when a determination is required;

(c) appointment, suspension, or removal of a Personal Representative;

(d) contested creditor claims;

(e) objections to an inventory, accounting, proposed distribution, or action of a Personal Representative;

(f) disputed ownership or valuation of estate property;

(g) approval of final distribution;

(h) discharge of a Personal Representative and closing of an estate;

(i) enforcement of probate orders and remedial relief under section 613.22; and

(j) any other matter requiring the exercise of judicial discretion.

613.11-4. *Requests for Court Action*. A Personal Representative or interested person may request instructions, approval, interpretation, or other relief from the Court at any time before the estate is closed.

613.11-5. *Additional Hearings*. The Court may conduct additional hearings when necessary to resolve an objection, determine a contested matter, review administration of the estate, protect estate property, or enter an order required by this law.

613.11-6. *No Hearing Required for Ministerial Matters*. Unless otherwise required by this law or ordered by the Court, a hearing is not required for a filing or action that does not require judicial determination.

613.12. Personal Representatives

613.12-1. *Appointment of Personal Representative*.

(a) The Court may appoint a Personal Representative to administer the estate of a Decedent.

(b) Appointment ordinarily shall be made at the Initial Probate Hearing after notice and an opportunity to be heard.

(c) The Court may appoint a Personal Representative at a later hearing or by another procedure authorized by this law when:

(1) appointment cannot reasonably be completed at the Initial Probate Hearing;

(2) the previously appointed Personal Representative is unable or unwilling to continue serving;

(3) a successor Personal Representative is required; or

(4) good cause otherwise exists.

(d) A competent adult or qualified entity may serve as Personal Representative.

(e) Preference for appointment shall be given in the following order:

(1) a person nominated in the Decedent's valid will;
(2) the surviving spouse;
(3) adult children of the Decedent, in descending order of age;
(4) a person nominated by unanimous agreement of the heirs and devisees;
(5) other heirs in order of priority under the laws of intestate succession; or
(6) any other qualified enrolled Oneida citizen whom the Court determines is suitable to serve.

(f) The Court may appoint a person with lower priority or decline to appoint a person with higher priority upon finding that doing so is in the best interests of the estate.

(g) If a Decedent dies partially testate and partially intestate, a single Personal Representative shall administer the entire estate unless the Court orders otherwise.

(h) If administration of an estate is required and no person with statutory priority is willing or qualified to serve, the Court may appoint a qualified neutral person, licensed fiduciary, attorney, agency, or other suitable entity as Personal Representative.

613.12-2. *Acceptance, Bond, and Letters*.

(a) Before Domiciliary Letters are issued, the Personal Representative shall file a signed acceptance of appointment affirming that the Personal Representative will faithfully and honestly perform the duties of office according to this law and orders of the Court.

(b) Upon a showing of good cause, the Court may require a Personal Representative to file a bond in an amount determined by the Court to ensure the faithful performance of the Personal Representative's duties.

(c) A bond shall not be required unless ordered by the Court.

(d) In determining whether a bond is necessary, the Court may consider:

(1) the value and nature of the estate;
(2) whether the Personal Representative is a family member of the Decedent;
(3) any objection raised by an interested person;
(4) any prior misconduct, conflict of interest, or financial concern relating to the Personal Representative; and
(5) any other circumstance relevant to protecting the estate and interested persons.

(e) A bond should ordinarily be considered when the value of the estate exceeds five hundred thousand dollars ($500,000.00), unless the Court determines that a bond is unnecessary under the circumstances.

(f) Upon filing the acceptance of appointment and filing any required bond, the Personal Representative shall be issued Domiciliary Letters under seal of the Court as evidence of the Personal Representative's authority to act on behalf of the estate.

613.12-3. *Powers of Personal Representative*. Subject to this law and the supervision of the Court, a Personal Representative may:

(a) take possession of, collect, preserve, and manage estate property;
(b) access, open, maintain, and close estate accounts;
(c) protect and insure estate property;
(d) pay approved expenses, claims, debts, taxes, and obligations of the estate;
(e) prosecute, defend, settle, compromise or otherwise resolve claims and disputes involving the estate;
(f) sell, transfer, lease, or otherwise dispose of estate property as authorized by law or Court order;
(g) execute deeds, assignments, receipts, releases, and other documents necessary to administer the estate;
(h) distribute estate property to heirs and beneficiaries; and

(i) perform any other act reasonably necessary to administer the estate.

613.12-4. *Duties of Personal Representative.* A Personal Representative is a fiduciary of the estate and shall administer the estate in good faith, with loyalty, prudence, and care. In carrying out those duties, the Personal Representative shall act impartially toward interested persons and shall:

(a) act in the best interests of the estate;

(b) identify and protect estate property;

(c) identify heirs, beneficiaries, and other interested persons;

(d) file inventories, accountings, and reports required by this law or the Court;

(e) give notices required by this law;

(f) review and address creditor claims;

(g) comply with all lawful orders of the Court;

(h) maintain adequate records concerning estate administration; and

(i) distribute the estate in accordance with this law, the Decedent's will, and orders of the Court.

613.12-5. *Removal or Suspension*.

(a) The Court may remove or suspend a Personal Representative for good cause, including:

(1) refusal or failure to perform a duty required by this law or an order of the Court;

(2) mismanagement, waste, or neglect of estate property;

(3) failure to provide required inventories, reports, or accountings;

(4) a conflict of interest that materially interferes with administration of the estate;

(5) physical or legal incapacity, persistent unwillingness, or other inability to continue administering the estate; or

(6) any other conduct that jeopardizes the proper administration of the estate.

(b) Removal proceedings may be initiated by:

(1) any interested person; or

(2) the Court on its own motion.

(c) Except in emergency circumstances, the Personal Representative shall receive notice and an opportunity to be heard in accordance with section 613.16 before removal.

(d) The Court may temporarily suspend a Personal Representative pending a hearing when necessary to protect the estate or interested persons.

613.12-6. *Resignation of Personal Representative*.

(a) A Personal Representative may resign by filing a written notice of resignation with the Court.

(b) The written notice shall:

(1) state the requested effective date of the resignation;

(2) describe the status of estate administration;

(3) identify any known deadlines, pending claims, contested matters, or property requiring immediate protection;

(4) identify any proposed successor Personal Representative, if known; and

(5) include an accounting or request additional time to file an accounting.

(c) The Personal Representative shall provide notice of the requested resignation in accordance with section 613.16 to:

(1) interested persons; and

(2) any proposed successor Personal Representative.

(d) The Court shall permit the Personal Representative to resign and may enter orders reasonably necessary to:

(1) establish the effective date of the resignation;

(2) protect estate property;

(3) require completion of an accounting;
(4) require transfer of estate property, records, accounts, and documents;
(5) appoint a successor Personal Representative; and
(6) provide for any other matter necessary to ensure an orderly transition of administration.

(e) A resignation becomes effective on the date established by Court order. The Court may delay the effective date only for the time reasonably necessary to protect the estate and arrange for continued administration.

(f) Until the resignation becomes effective, the Personal Representative shall:
(1) continue performing duties necessary to preserve estate property;
(2) avoid making a distribution or taking another material action not reasonably necessary to protect the estate, unless authorized by the Court; and
(3) comply with the Court's transition orders.

(g) Resignation does not relieve a Personal Representative from liability for an act or omission occurring before the resignation becomes effective.

(h) Upon approval of the accounting and completion of the required transfer, the Court may discharge the resigning Personal Representative from further duties relating to administration of the estate.

613.12-7. *Successor Personal Representative*.

(a) Upon the death, resignation, suspension, removal, or incapacity of a Personal Representative, the Court may appoint a successor Personal Representative in accordance with the priorities established in section 613.12-1.

(b) A successor Personal Representative has the same powers and duties as the original Personal Representative, except as limited by the Court.

(c) A former Personal Representative shall promptly transfer all estate property, records, accounts, and documents to the successor Personal Representative and comply with any Court order governing the transition.

(d) The Court may require a final accounting before discharging a former Personal Representative.

(e) Removal, resignation, or replacement does not relieve a former Personal Representative from liability for an act or omission occurring during that person's administration of the estate.

613.13. Intestate Estates

613.13-1. *Applicability*. This section governs the distribution of property not effectively disposed of by a valid will.

613.13-2. *Advancements*. If a person dies intestate as to all or part of the person's estate, property the Decedent gave during the Decedent's lifetime to an heir is treated as an advancement against the heir's share only if the Decedent declared that intent in a contemporaneous writing or the heir acknowledged the advancement in writing. For this purpose, the property advanced is valued as of the time the heir came into possession or enjoyment of the property or as of the time of death of the Decedent, whichever first occurs. If the recipient of the property fails to survive the Decedent, the property is not taken into account in computing the intestate share to be received by the recipient's issue, unless the declaration or acknowledgment provides otherwise.

613.13-3. *Effect of Homicide on Succession*.

(a) A person who intentionally and unlawfully causes the death of a Decedent shall not inherit from the Decedent or receive any benefit under this law.

(b) The estate shall be distributed as if the person predeceased the Decedent.

(c) This section applies to all transfers at death governed by this law, including intestate succession, testamentary transfers, and nonprobate transfers including beneficiary designations, insurance proceeds, and other distributions of property at death.

(d) A final criminal conviction establishing that a person intentionally and unlawfully caused the Decedent's death conclusively establishes that this section applies. In the absence of a final conviction, an interested person may petition the Court for a determination. After notice and an opportunity to be heard, the Court shall determine by a preponderance of the evidence whether the person intentionally and unlawfully caused the Decedent's death. A determination under this subsection governs only the person's rights and benefits arising from the Decedent's death and does not constitute a criminal conviction.

613.13-4. *Intestate Succession*. The net estate of a Decedent not effectively disposed of by a valid will passes to the Decedent's heirs as follows:

(a) *Surviving Spouse Only*. If the Decedent is survived by a spouse but no descendants, the surviving spouse receives:

(1) all real property; and

(2) all other estate property.

(b) *Surviving Spouse and Descendants*.

(1) If the Decedent is survived by a spouse and one or more descendants, the surviving spouse receives:

(A) all real property; and

(B) one-half (1/2) of the Decedent's non-real property.

(2) The remaining one-half (1/2) of the Decedent's non-real property passes to the Decedent's descendants by right of representation, or per stirpes, under section 613.13-5.

(c) *Descendants and No Surviving Spouse*. If the Decedent is not survived by a spouse but is survived by one or more descendants, the entire estate shall pass to the Decedent's descendants by right of representation, or per stirpes, under section 613.13-5.

(d) *Parents.* If the Decedent is not survived by a spouse or descendants, the entire estate shall pass equally to the Decedent's surviving parent or parents.

(e) *Siblings and Descendants of Deceased Siblings*. If the Decedent is not survived by a spouse, descendant, or parent:

(1) the estate shall be divided into a number of equal family branches equal to the total number of:

(A) surviving siblings of the Decedent; and

(B) deceased siblings of the Decedent who left one or more surviving descendants;

(2) each surviving sibling identified in subparagraph (1)(A) shall receive one family-branch share; and

(3) the family-branch share allocated to each deceased sibling identified in subparagraph (1)(B) shall pass to that sibling's surviving descendants by right of representation, or per stirpes, under section 613.13-5.

(4) All siblings of the Decedent shall be treated equally under this subsection, regardless of whether they share one or both parents with the Decedent.

(f) *Grandparents.* If the Decedent is not survived by a spouse, descendants, parents, siblings, or descendants of siblings, the entire estate shall pass equally to the Decedent's surviving grandparents.

(g) *Descendants of Grandparents.* If the Decedent is not survived by a spouse, descendant, parent, sibling, descendant of a sibling, or grandparent, the estate shall be divided into one

equal share for each grandparent who left one or more surviving descendants. Each share shall pass by right of representation, or per stirpes, to that grandparent's surviving descendants under section 613.13-5.

(h) *No Eligible Heir*. If no person is entitled to inherit under subsections (a) through (g), the estate shall escheat to the Nation under section 613.6-3.

(i) *Intestate Succession Table.* Figure 1 illustrates the order of intestate succession established by this section. The provisions of this section control if an inconsistency exists between Figure 1 and the text of this section.

Figure 1. Order of Intestate Succession

If the Decedent is survived by:	The estate passes as follows:	Applicable provision
A surviving spouse and no descendants	The surviving spouse receives the entire estate, including all real property and all other estate property.	613.13-4(a)
A surviving spouse and one or more descendants	The surviving spouse receives all real property and one-half (1/2) of the non-real property. The remaining one-half (1/2) of the non-real property passes to the Decedent's descendants by right of representation, or per stirpes, under section 613.13-5.	613.13-4(b)
One or more descendants and no surviving spouse	The entire estate passes to the Decedent's descendants by right of representation, or per stirpes, under section 613.13-5.	613.13-4(c)
One or more surviving parents and no surviving spouse or descendants	The entire estate passes equally to the Decedent's surviving parent or parents.	613.13-4(d)
One or more surviving siblings, or descendants of a deceased sibling, and no surviving spouse, descendants, or parents	The entire estate passes by right of representation, or per stirpes, to the Decedent's surviving siblings and the descendants of deceased siblings. Each surviving sibling and each deceased sibling who left one or more surviving descendants represents one family branch.	613.13-4(e)
One or more surviving grandparents and no surviving spouse, descendants, parents, siblings, or descendants of siblings	The entire estate passes equally to the Decedent's surviving grandparents.	613.13-4(f)

One or more descendants of the Decedent's grandparents and no person entitled to inherit under an earlier category	The entire estate passes by right of representation, or per stirpes, to the descendants of the Decedent's grandparents under sections 613.13-4(g) and 613.13-5.	613.13-4(g)
No person entitled to inherit under 613.13-4(a) through (g)	The estate escheats to the Nation.	613.6-3 and 613.13-4(h)

613.13-5. *Distribution by Right of Representation; Per Stirpes.*

(a) When property passes by right of representation, or per stirpes, to the descendants of a person, the property shall be divided into a number of equal shares equal to the total number of:

(1) surviving children of that person; and

(2) deceased children of that person who left one or more surviving descendants.

(b) One share shall be distributed to each surviving child identified in subsection (a)(1).

(c) The share allocated to each deceased child identified in subsection (a)(2) shall be distributed to that child's surviving descendants by applying this section as if the deceased child were the person whose descendants are entitled to receive the share.

(d) The process established by subsection (c) shall be repeated at each succeeding generation until the entire share has been distributed.

(e) A deceased child who left no surviving descendant shall not be allocated a share.

(f) A person treated as having predeceased another person under this law shall be treated as deceased for purposes of this section.

(g) A descendant of a living person who receives a share under this section shall not receive a separate share.

(h) A person related through more than one line of descent to the person whose descendants are entitled to receive property under this section is entitled to only one share, based on the line of descent that produces the largest share.

613.13-6. *Debts to a Decedent*. When an heir owes money to the Decedent, the debt may be deducted from that heir's inheritance. The debt may not be deducted from the inheritance of another heir. If the heir owing the debt dies before the Decedent, the debt may not be deducted from the inheritance of that heir's descendants who take the deceased heir's share by right of representation, or per stirpes.

613.13-7. *Partition and Sale of Property*. If multiple heirs or devisees hold undivided interests in property, the Court may order partition or sale when necessary to effectuate distribution and when partition in kind would materially prejudice the owners. Distribution shall be made according to the Court's order.

613.13-8. *Family Settlement Agreements*. Family settlement agreements are favored by the Nation and shall be liberally construed to promote peaceful resolution of estate matters. An agreement may arise at any time during a probate proceeding and may be facilitated through the Peacemaking and Mediation Division established under section 801.6 of the Judiciary Law.

(a) Interested persons may enter into a written agreement resolving any matter concerning:

(1) heirship;

(2) distribution;
(3) valuation of property;
(4) administration of the estate; or
(5) settlement of claims.

(b) The Court shall approve the agreement unless it finds:
(1) fraud;
(2) duress;
(3) violation of federal law;
(4) violation of this law; or
(5) substantial prejudice to a minor, incapacitated person, or absent heir.

(c) Upon approval, the agreement shall be binding upon all signatories and may be incorporated into the final order of distribution.

(d) At any time during probate proceedings, interested persons may voluntarily participate in peacemaking or mediation through the Peacemaking and Mediation Division established under section 801.6 of the Judiciary Law for the purpose of resolving probate disputes or negotiating a family settlement agreement. Any agreement resulting from peacemaking or mediation shall be reduced to writing and submitted to the Court for approval under this section.

613.14. Wills

613.14-1. *Applicability*. All matters relating to the execution, admission, validity, interpretation, and effect of wills shall be determined in accordance with this law.

613.14-2. *Determination by Court*. The Court shall determine the validity and effect of a will as part of the probate proceeding. A will may be admitted at the Initial Probate Hearing or at a later hearing if additional evidence or proceedings are required.

613.14-3. *Objections and Contested Matters*. If an interested person objects to the admission, validity, interpretation, or effect of a will, the Court shall provide notice and an opportunity to be heard and shall conduct any additional proceedings necessary to resolve the objection.

613.14-4. *Who May Make a Will*. Any person eighteen (18) years of age or older who is of sound mind may make a will.

613.14-5. *Execution*. Except as provided in section 613.14-6 (Holographic Will), a valid will shall:

(a) be in writing;

(b) be signed by the testator or by another person acting in the testator's presence and at the testator's direction; and

(c) be signed by at least two (2) witnesses who witnessed either:

(1) the signing of the will;
(2) the testator's acknowledgment of the signature; or
(3) the testator's acknowledgment that the document is their will.

613.14-6. *Holographic Will*. A will is valid as a holographic will, whether or not witnessed, if:

(a) the will does not satisfy the execution requirements of section 613.14-5; and

(b) the signature and material provisions of the will are in the testator's handwriting.

613.14-7. *Self-Proved Will*.

(a) An attested will may be made self-proved:
(1) at the time of execution; or
(2) at any later date.

(b) A will is self-proved when:
(1) the testator acknowledges the will; and

(2) the witnesses execute affidavits before a notary public or other authorized official.

(c) The acknowledgment and affidavits shall be evidenced by a certificate under official seal attached to or annexed to the will.

(d) The existence of a self-proving affidavit does not prevent an interested person from contesting the validity of the will on grounds such as fraud, duress, undue influence, or lack of testamentary capacity.

(e) A certificate substantially in the following form satisfies this section:

THE STATE OF _____

COUNTY OF _____

We, _____, _____.

and _____, the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as their last will and that they had signed willingly or directed another to sign for them, and that they executed it as their free and voluntary act for the purposes therein expressed; and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of their knowledge the testator was at the time 18 or more years of age, of sound mind and under no constraint or undue influence.

_____

Testator

_____

Witness

_____

Witness

Subscribed, sworn to and acknowledged before me by _____, the testator, and subscribed and sworn to before me by _____ and _____, witnesses, this _____ day of _____, 20____.

_____

(Signed)

_____

(Official capacity of officer)

613.14-8. *Who May Witness*. Any person eighteen (18) years of age or older who is generally competent to be a witness may witness a will. A will or any provision thereof is not invalid because the will is signed by an interested witness.

613.14-9. *Choice of Law Governing Execution*. A written will is valid if it is executed in compliance with this law or with the law in effect at the time of execution in any of the following jurisdictions:

(a) the place where the will is executed; or

(b) the place where, at the time of execution or at the time of the testator's death, the testator is domiciled, resides, has a place of abode, or is a national.

613.14-10. *Revocation by Writing or by Act*. A will or any part thereof is revoked:

(a) by a subsequent will which revokes the prior will in whole or in part expressly or by inconsistency; or

(b) by being burned, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking it by the testator or by another person in their presence and by the

testator's direction.

613.14-11. *Revocation by Divorce*.

(a) If, after executing a will, the testator is divorced or their marriage annulled, the divorce or annulment revokes:

(1) any disposition or appointment of property made by the will to the former spouse;

(2) any provision conferring a general or special power of appointment on the former spouse;

(3) any nomination of the former spouse as:

(A) Personal Representative;

(B) trustee;

(C) conservator; or

(D) guardian.

(b) This section does not apply if the will expressly provides otherwise.

(c) Property prevented from passing to a former spouse under this section passes as if the former spouse predeceased the Decedent.

(d) A power, authority, nomination, or office conferred upon the former spouse shall be interpreted as if the former spouse predeceased the Decedent.

(e) If provisions are revoked solely by operation of this section, they are revived by the testator's remarriage to the former spouse.

(f) A decree of legal separation that does not terminate the marriage is not a divorce for purposes of this section.

(g) No change of circumstances other than those described in this section revokes a will.

613.14-12. *Revival of a Revoked Will*.

(a) A prior will is not automatically restored merely because a later will is revoked.

(b) A revoked will becomes effective again only if the testator intended that result.

(c) The testator's intent may be established by:

(1) the circumstances surrounding the revocation of the later will;

(2) statements made by the testator; or

(3) the terms of a subsequent will.

(d) A prior will is revived only to the extent intended by the testator.

613.14-13. *Incorporation by Reference*. Any writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

613.14-14. *Events of Independent Significance*. A will may dispose of property by reference to acts and events which have significance apart from their effect upon the dispositions made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of a will of another person is such an event.

613.14-15. *Requirement that Devisee Survive Testator by One Hundred Twenty (120) Hours*. A devisee who does not survive the testator by one hundred twenty (120) hours is treated as if they predeceased the testator, unless the will of the Decedent contains some language dealing explicitly with simultaneous deaths or deaths in a common disaster, or requiring that the devisee survive the testator or survive the testator for a stated period in order to take under the will.

613.14-16. *Simultaneous Death*. The following rules apply to property not governed by the one-hundred-twenty-hour survival requirement in section 613.14-15 when there is insufficient evidence to establish the order of death.

(a) *General Rule*. Where the title to property depends upon priority of death and there is insufficient evidence that persons died other than simultaneously, each person's property shall be distributed as though that person survived the other.

(b) *Successive Beneficiaries*. Where two or more beneficiaries are designated to take successively by reason of survivorship and there is insufficient evidence establishing the order of death, the property shall be divided into equal shares corresponding to the number of successive beneficiaries and distributed accordingly.

(c) *Joint Tenants*. Where there is insufficient evidence that joint tenants or tenants by the entirety died other than simultaneously:

(1) Property held by two joint tenants shall be distributed:

(A) one-half as if the first tenant survived; and

(B) one-half as if the second had survived.

(2) Where more than two joint tenants are involved, property shall be distributed proportionately.

(d) *Life Insurance*. Where the insured and the beneficiary die and there is insufficient evidence establishing the order of death, the proceeds shall be distributed as if the insured survived the beneficiary.

(e) *Exception*. This section does not apply where a will, trust, deed or contract, or other governing instrument provides otherwise.

613.14-17. *Rules of Construction and Intent*. The intention of a testator as expressed in their will controls the legal effect of their dispositions. The rules of construction expressed in the succeeding sections of this law apply unless a contrary intention is indicated by the will.

613.14-18. *After-Acquired Property*. A will is construed to pass all property which the testator owns at their death including property acquired after the execution of the will.

613.14-19. *Anti-Lapse; Deceased Devisee; Class Gifts*.

(a) This section applies when a devisee is:

(1) a grandparent of the testator; or

(2) a lineal descendant of a grandparent of the testator.

(b) The devise passes to the devisee's issue who survive the testator by one hundred twenty (120) hours if the devisee:

(1) is deceased when the will is executed;

(2) fails to survive the testator; or

(3) is treated as having predeceased the testator.

(c) The devisee's surviving issue shall take the devise by right of representation, or per stirpes, under section 613.13-5.

(d) A person who would have been a devisee under a class gift if the person had survived the testator shall be treated as a devisee for purposes of this section.

613.14-20. *Failure of Testamentary Provision*.

(a) Except as provided in section 613.14-19, if a devise other than a residuary devise fails for any reason, it becomes a part of the residue.

(b) Except as provided in section 613.14-19, if the residue is devised to two or more persons and the share of one of the residuary devisees fails for any reason, their share passes to the other residuary devisee, or to other residuary devisees in proportion to their interests in the residue.

613.14-21. *Exercise of Power of Appointment*. A general residuary clause in a will, or a will making general disposition of all of the testator's property, does not exercise a power of appointment held by the testator unless specific reference is made to the power or there is some other indication of intention to include the property subject to the power.

613.14-22. *Nonexoneration*. A specific devise passes subject to any security interest existing at the date of death, without right of exoneration, regardless of a general directive in the will to pay debts.

613.14-23. *Ademption by Extinction/Property No Longer Owned by Decedent*.

(a) A specific devise fails if the Decedent does not own the specifically devised property at the time of death.
(b) Unless the will provides otherwise, the devisee is not entitled to:
(1) the value of the property;
(2) substitute property; or
(3) compensation from the estate.
(c) This section applies when the property was sold, gifted, transferred, destroyed, lost, or otherwise disposed of before the Decedent's death.

613.14-24. *Ademption by Satisfaction*.
(a) A lifetime gift to a devisee shall be treated as satisfaction of a devise only if:
(1) the will provides that the gift is to be deducted;
(2) the testator declares in a contemporaneous writing that the gift is:
(A) in satisfaction of the devise; or
(B) deducted from the devise; or
(3) the devisee acknowledges in writing that the gift:
(A) is in satisfaction of the devise; or
(B) must be deducted from the devise.
(b) For partial satisfaction purposes, the value of the gift shall be determined as of the earlier of:
(1) the date the devisee received possession or enjoyment of the property; or
(2) the date of the testator's death.

613.14-25. *Harmless Error*. Notwithstanding the execution requirements for wills set forth in this law, a document or writing not executed in compliance with this law shall be treated as a valid will if the proponent establishes by clear and convincing evidence that the Decedent intended the document or writing to constitute:
(a) the Decedent's will;
(b) a partial or complete revocation of a will; or
(c) an addition to or alteration of a will.

613.15. Probate of Wills

613.15-1. *Applicability*. This section governs the admission, probate, interpretation, and administration of wills through the probate procedures established by this law.

613.15-2. *Admission of Will to Probate*.
(a) A will may be admitted to probate upon petition of an interested person.
(b) The Court shall admit a will to probate if it determines that the will complies with the requirements of this law or is otherwise valid under applicable law.
(c) A self-proved will may be admitted without testimony from the attesting witnesses unless its authenticity is challenged.
(d) A will that is lost, destroyed, or otherwise unavailable may be admitted to probate upon proof of its contents and validity by clear and convincing evidence.
(1) In determining whether the burden of proof has been met, the Court shall require evidence independent of the testimony of a person seeking to benefit from the will. Such evidence may include:
(A) a copy of the will;
(B) attorney files, notes, correspondence, or records relating to preparation or execution of the will;
(C) electronic records, emails, or other writings created by the Decedent;
(D) affidavits or testimony of the drafting attorney, attesting witnesses, or

other disinterested persons with personal knowledge; or

(E) other reliable documentary or physical evidence corroborating the existence, contents, and validity of the will.

(2) A lost or destroyed will may not be admitted to probate solely upon oral testimony. The Court shall require corroborating documentary, physical, or other reliable evidence establishing the existence and contents of the will.

613.15-3. *Determination of Validity*.

(a) The Court shall determine the validity of a will upon review of the will, petition, supporting documents, and evidence presented in the probate proceeding.

(b) If no objection is raised and the evidence establishes validity, the Court may admit the will at the Initial Probate Hearing.

(c) If the validity of the will is contested or the available evidence is insufficient, the Court shall conduct any additional proceedings necessary to determine:

(1) whether the document constitutes a valid will;

(2) whether the will was revoked;

(3) whether the will was executed in compliance with this law;

(4) whether the will was procured by fraud, duress, undue influence, or lack of testamentary capacity; and

(5) any other issue affecting the validity or enforceability of the will.

(d) In a proceeding involving the validity of a will:

(1) the proponent bears the burden of establishing due execution and entitlement to probate by a preponderance of the evidence, except when this law requires clear and convincing evidence; and

(2) the contestant bears the burden of establishing revocation, fraud, duress, undue influence, lack of testamentary capacity, or another ground challenging validity, unless otherwise provided by law.

613.15-4. *Construction and Interpretation of Wills*.

(a) The intent of the testator as expressed in the will controls to the fullest extent permitted by law.

(b) The Court may interpret and construe the provisions of a will where necessary to resolve an ambiguity, effectuate the testator's intent, or facilitate administration of the estate.

(c) Extrinsic evidence may be considered to resolve ambiguities and determine the testator's intent.

(d) The Court may construe or interpret a will upon petition of the Personal Representative or any interested person whose rights may be affected by the interpretation of the will.

(e) The Personal Representative may petition the Court for instructions concerning the administration of the estate, including the distribution of property, the implementation of the terms of a will, or any other matter affecting the Personal Representative's duties. The Court may issue appropriate orders necessary to effectuate the testator's intent and facilitate administration of the estate.

613.15-5. *Will Contests*.

(a) Any interested person may contest a will or any provision thereof.

(b) A will contest shall be determined by the Court after notice and an opportunity to be heard.

(c) The contestant bears the burden of proving the grounds for contest by a preponderance of the evidence unless otherwise required by law.

(d) A will contest may not be commenced after entry of the final order closing the estate except through reopening under section 613.15-8 or relief for fraud under section 613.7.

613.15-6. *Partial Intestacy.* Where a valid will does not effectively dispose of all property of the Decedent, the undisposed property shall pass according to the intestate succession provisions of this law.

613.15-7. *Distribution; Order in which Assets Appropriated; Abatement.* Property devised by will shall be distributed by the Personal Representative in accordance with the will, this law, and orders of the Court.

(a) Except as otherwise provided in this section, shares abate in the following order:

(1) property not disposed of by the will;

(2) residuary devises;

(3) general devises; and

(4) specific devises.

(b) Within each class, abatement shall occur proportionately.

(c) A general devise charged against specific property or a specific fund is:

(1) a specific devise to the extent of the value of the property or fund; and

(2) a general devise to the extent of any deficiency.

(d) If the will expresses an order of abatement, or if the testamentary plan or purpose of a devise would otherwise be defeated, the Court shall adjust the order of abatement as necessary to effectuate the intent of the testator.

(e) If the subject of a preferred devise is sold, consumed, or used during administration, abatement shall be achieved by appropriate adjustments among beneficiaries.

613.15-8. *Property Discovered After Estate Closed*. If property of the Decedent or other matters affecting administration or distribution are discovered after an estate has been closed, the Court may reopen the estate as necessary to administer the property or resolve the matter in accordance with this law.

613.15-9. *Compensation of Personal Representatives and Attorneys.*

(a) Compensation of a Personal Representative or attorney shall be subject to Court approval.

(b) A Personal Representative may receive compensation of two percent (2%) of the value of estate property for which the Personal Representative is accountable, less mortgages and liens, plus net principal gains realized during administration, unless:

(1) the Decedent and Personal Representative agreed in writing to a different amount;

(2) the persons entitled to receive a majority of the estate and the Personal Representative agree in writing to a different amount; or

(3) the Court determines that a different amount is reasonable.

(c) The Court may approve additional compensation for unusual difficulty or extraordinary services.

(d) The Court may reduce or deny compensation if the Personal Representative breached a fiduciary duty, failed to perform a required duty, unnecessarily delayed administration, or otherwise acted contrary to the interests of the estate.

(e) An attorney employed to assist the Personal Representative or estate is entitled to reasonable compensation for necessary legal services, subject to Court approval.

(f) In determining reasonable attorney compensation, the Court may consider:

(1) the time and labor reasonably required;

(2) the complexity and novelty of the legal issues;

(3) the skill required to perform the services;

(4) the results obtained for the estate;

(5) the customary charge for comparable legal services;

(6) the size and nature of the estate;

(7) whether the services benefited or protected the estate; and

(8) any other relevant circumstance.

(g) An attorney may not charge attorney rates for services that are purely administrative and ordinarily performed by the Personal Representative.

(h) The Court may order repayment of compensation found to be excessive or unsupported.

613.16. Notice

613.16-1. *General Requirement*. Notice shall be provided in all probate proceedings under this law to ensure that interested persons are informed and have an opportunity to be heard. Notice shall be reasonably calculated, under the circumstances, to apprise interested persons of the pendency of the proceeding and afford them an opportunity to present objections. This section governs notice in all probate proceedings under this law unless a specific provision expressly modifies or supplements these requirements. In the event of a conflict, the specific provision shall control only to the extent of the inconsistency.

613.16-2. *Responsibility for Notice*.

(a) Unless otherwise provided by this law or ordered by the Trial Court, the petitioner or Personal Representative, as applicable, is responsible for providing notice of a hearing, petition, motion, objection, or other filing requiring notice under this law.

(b) A provision of this law assigning responsibility for notice to a particular person controls over the general requirement in subsection (a).

(c) The Court may direct the Court Clerk to issue or provide notice when necessary for case administration or when no petitioner or Personal Representative is reasonably available to provide notice.

613.16-3. *Persons Entitled to Notice*. Notice shall be provided to each interested person whose legally protected right or interest may be materially affected by the hearing, petition, motion, objection, or other matter for which notice is required.

613.16-4. *Specific Notice Requirements*. A provision identifying persons entitled to notice of a particular matter controls the notice required for that matter. The Court may require notice to an additional interested person when necessary to protect that person's rights or interests.

613.16-5. *Method of Notice*. Unless otherwise required by this law or ordered by the Court, notice may be provided by one or more of the following methods. The methods are not listed in an order of priority, and a person providing notice is not required to attempt one method before another:

(a) Mail. By certified, registered, or first-class mail to the person's last known address.

(b) Personal Service. By delivering a copy of the notice personally to the individual.

(c) Electronic Service. When the person has consented in writing to receive notice electronically.

(d) *Publication and Posting*. If the identity or address of an interested person is unknown and cannot be ascertained with reasonable diligence:

(1) by publication in the Kalihwisaks and, where appropriate, a newspaper of general circulation; and

(2) by posting in at least two (2) of the following designated places of prominence within the Reservation:

(A) Oneida Health Center;

(B) HWY 54 & EEE Oneida One Stops;

(C) Oneida Community Library; or

(D) Oneida Main Casino.

613.16-6. *Timing of Notice*.

(a) Unless otherwise provided by this law or ordered by the Trial Court for good cause,

notice shall be provided at least fourteen (14) calendar days before the hearing or other event to which the notice relates.

(b) When notice by publication and posting is required under section 613.16-5(d):

(1) the date of first publication constitutes the date of publication;

(2) the notice shall be posted in the required places of prominence no later than the date of first publication; and

(3) both publication and posting shall occur at least fourteen (14) calendar days before the hearing or other event to which the notice relates.

613.16-7. *Content of Notice*. All notices shall include, at a minimum:

(a) the name of the Decedent;

(b) the case number, if assigned;

(c) the nature of the proceeding;

(d) the date, time, and location (or virtual access information) of the hearing, if applicable;

(e) information on how to access relevant filings or the probate file; and

(f) contact information for the Court or petitioner.

613.16-8. *Proof of Notice*.

(a) Proof of notice shall be filed with the Trial Court before or at the hearing or other event to which the notice relates.

(b) Proof of notice by mail, personal service, electronic service, or posting shall include a signed declaration or affidavit stating:

(1) the documents provided;

(2) the person served or notified;

(3) the address or electronic address used;

(4) the date and method of service; and

(5) any additional information required by Court rule or form.

(c) Proof of publication shall include:

(1) an affidavit or certification from the publisher; and

(2) a copy of the published notice.

(d) A mailing receipt, delivery confirmation, acknowledgment, return receipt, or comparable record may be attached as supporting evidence but does not replace the declaration or affidavit required by subsection (b).

613.16-9. *Waiver of Notice*. Any person entitled to notice may waive such notice in writing. A written waiver signed by the person or their attorney and filed with the Court shall be deemed sufficient.

613.16-10. *Court Authority and Substantial Compliance*. The Trial Court may, for good cause shown:

(a) modify the method or timing of notice;

(b) require additional notice to protect the interests of affected persons; or

(c) determine that notice substantially complies with this law if no material prejudice resulted.

613.17. Creditors and Claims

613.17-1. *Notice to Creditors*.

(a) The Personal Representative shall provide notice to creditors by publication at least once in a publication of general circulation or general distribution serving the Reservation.

(b) The Personal Representative may provide additional notice through an official Nation publication, website, posting location, or other communication platform reasonably calculated to notify potential creditors. The Court may require additional notice when

appropriate under the circumstances.
(c) If no Personal Representative has been appointed, the Court may direct the Court Clerk to issue creditor notice. The Clerk's responsibility under this subsection is ministerial and does not include evaluating, allowing, disallowing, or paying a claim.
(d) Notice under this section constitutes statutory notice to creditors. To the extent consistent with this section, the notice provisions of section 613.16 govern the method and proof of notice.
(e) The notice shall state that creditors must file their claims with the Court or deliver them to the Personal Representative within ninety (90) days after the first publication of notice and that untimely claims are barred unless permitted under section 613.17-9(b).
(f) The Personal Representative shall provide actual notice to any known creditor whose address is reasonably ascertainable.
(g) Actual notice to a known creditor shall be provided at least thirty (30) days before expiration of the claim period. A known creditor receiving later notice may present a claim within thirty (30) days after actual notice unless the estate has been finally closed.

613.17-2. *Presentation of Claims*.
(a) A creditor seeking payment from an estate shall present a written claim within the period established by section 613.17-9 by:
(1) filing the claim with the Court; or
(2) delivering the claim to the Personal Representative, who shall promptly file a copy with the Court.
(b) If no Personal Representative has been appointed, the creditor shall file the claim with the Court.
(c) A claim shall state:
(1) the creditor's name and address;
(2) the amount claimed;
(3) the basis of the claim; and
(4) the supporting documentation reasonably necessary to establish the claim.

613.17-3. *Allowance or Disallowance of Claims*.
(a) The Personal Representative shall review each timely presented claim and make a preliminary determination allowing or disallowing the claim, in whole or in part.
(b) The Personal Representative shall provide written notice of the determination to:
(1) the creditor; and
(2) any interested person who has filed a written demand for notice concerning creditor claims.
(c) A preliminary allowance authorizes payment of the claim in accordance with section 613.17-7 unless an objection is timely filed or the Court orders otherwise.
(d) A disallowed claim shall not be paid unless:
(1) the Personal Representative later allows the claim;
(2) the parties resolve the claim through a written settlement; or
(3) the Court allows the claim after review.
(e) An allowance or disallowance by the Personal Representative is subject to objection and review by the Court under sections 613.17-4 and 613.17-5.

613.17-4. *Objections to Claims*.
(a) A creditor or interested person whose pecuniary interest may be materially affected may object to the Personal Representative's allowance or disallowance of a claim.
(b) An objection shall:

(1) be filed within thirty (30) days after notice of the Personal Representative's allowance or disallowance of the claim;
(2) identify the claim and the determination being challenged; and
(3) state the factual and legal grounds for the objection.

(c) Filing an objection stays payment of the disputed portion of the claim unless the Court orders otherwise.

(d) After notice and an opportunity to be heard, the Court shall determine the validity, amount, and priority of the disputed claim.

613.17-5. *Court Determination of Claims*.

(a) Upon an objection filed under section 613.17-4, the Court shall determine the validity, amount, classification, and priority of the disputed claim.

(b) The Court may consider affidavits, documentary evidence, testimony, stipulations, and other admissible evidence.

(c) The creditor bears the burden of establishing the validity and amount of the claim by a preponderance of the evidence.

(d) A person objecting to an otherwise established claim bears the burden of proving an affirmative defense, payment, waiver, discharge, or other basis for avoiding the claim.

(e) The Court may consolidate the claim proceeding with another probate matter when appropriate.

613.17-6. *Priority of Claims*.

(a) A valid secured claim shall be satisfied from the property securing the claim or from the proceeds of that property, subject to the terms of the security interest and applicable law.

(b) If the value of the collateral is insufficient to satisfy the secured claim, the unpaid balance shall be treated as an unsecured claim to the extent permitted by applicable law.

(c) Estate property not subject to a valid security interest shall be used to pay allowed claims and administration expenses in the following order:

(1) costs and expenses of administration, including Court costs, reasonable attorney fees, and Personal Representative compensation;
(2) funeral and burial expenses;
(3) family allowances and exempt-property rights under section 613.18, with priority between those rights determined under section 613.18-6(f);
(4) debts and taxes entitled to priority under applicable federal law; and
(5) all other allowed unsecured claims.

613.17-7. *Payment of Claims*.

(a) Allowed claims shall be paid by the Personal Representative in accordance with the priority provisions of this section and any order of the Court.

(b) Payment of claims shall occur before final distribution of the estate unless otherwise ordered by the Court.

(c) Allowed claims may be paid during administration of the estate without further Court approval unless an objection is pending or the Court orders otherwise.

613.17-8. *Insufficient Assets*. If the assets of the estate are insufficient to satisfy all allowed claims, claims within each class of priority shall be paid proportionately.

613.17-9. *Effect of Untimely Claims*.

(a) A claim not presented within ninety (90) days after first publication of creditor notice is barred unless the Court permits the late claim under subsection (b).

(b) Before entry of the final order closing the estate, the Court may permit a late-filed claim upon a showing of good cause and a finding that allowance of the claim will not substantially

prejudice estate administration or the rights of interested persons.

(c) A late claim may not be allowed after entry of the final order closing the estate except as otherwise provided for fraud under section 613.7.

613.18. Family Rights

613.18-1. *Applicability of Family Rights*. Except as otherwise expressly provided in this section, the rights and allowances established by this section apply whether the Decedent died testate or intestate.

613.18-2. *Waiver of Family Rights.*

(a) A surviving spouse may waive:

(1) homestead protection;

(2) exempt-property rights; and

(3) family-allowance rights.

(b) A waiver may be made before or after marriage.

(c) A waiver is enforceable only if it:

(1) is in writing;

(2) is signed by the person waiving the right; and

(3) was executed after fair disclosure.

(d) Unless the agreement provides otherwise, a written waiver of "all rights" in the estate of a present or prospective spouse constitutes a waiver of the rights identified in subsection (a).

613.18-3. *Omitted Spouse*.

(a) If a testator fails to provide by will for a surviving spouse whom the testator married after execution of the will, an omitted spouse shall receive the share they would have received had the Decedent died intestate unless:

(1) the omission appears intentional from the will; or

(2) the testator provided for the spouse outside the will and intended that transfer to replace a testamentary gift.

(b) Intent under subsection (a)(2) may be established by:

(1) statements of the testator;

(2) the amount of the transfer; or

(3) other relevant evidence.

613.18-4. *Pretermitted Children*.

(a) A child omitted from a will is entitled to receive the share of the estate the child would have received if the testator had died intestate if the child:

(1) was born after execution of the will; or

(2) was adopted after execution of the will.

(b) Subsection (a) does not apply if:

(1) the omission appears intentional from the will;

(2) when the will was executed, the testator had one or more children and devised substantially all of the estate to the other parent of the omitted child; or

(3) the testator provided for the child outside the will and intended that transfer to replace a gift under the will.

(c) Intent under subsection (b)(3) may be established by:

(1) statements of the testator;

(2) the amount of the transfer; or

(3) other relevant evidence.

(d) A child living when the will was executed is entitled to receive the share the child would

have received if the testator had died intestate if:

(1) the child was omitted from the will; and

(2) the omission occurred solely because the testator believed the child to be deceased.

(e) Devises shall abate as necessary to satisfy a share awarded under this section.

613.18-5. *Homestead Protection.*

(a) A Personal Representative shall take reasonable steps to preserve a residence in which the Decedent held an interest and which, at the time of death, was occupied by:

(1) the surviving spouse;

(2) a minor child of the Decedent; or

(3) a dependent child of the Decedent.

(b) To the extent estate funds are reasonably available, the Personal Representative shall pay directly to the creditor or service provider the amounts necessary to keep current:

(1) a mortgage or other debt secured by the residence;

(2) rent or lease payments necessary to preserve occupancy;

(3) property taxes;

(4) property insurance; and

(5) essential utility charges necessary to preserve the residence.

(c) Payments under this section may continue until the earliest of:

(1) final distribution of the residence or the Decedent's interest in the residence;

(2) sale or other lawful disposition of the residence;

(3) termination of the estate's ownership, leasehold, possessory, or contractual interest;

(4) one (1) year after the Decedent's death; or

(5) further order of the Court.

(d) Payments under this section shall be made directly by the Personal Representative and shall not be divided among or distributed to occupants of the residence unless the Court orders otherwise.

(e) The Court may modify or terminate the obligation upon finding that:

(1) estate funds are insufficient;

(2) continued payment would materially prejudice estate administration or persons entitled to the estate;

(3) the residence is no longer occupied by a person identified in subsection (a);

(4) the expense is unreasonable; or

(5) modification or termination is otherwise necessary to protect the estate.

(f) Payments under this section preserve the residence during administration and do not determine title, inheritance rights, or final distribution.

613.18-6. *Exempt Property.*

(a) The surviving spouse is entitled to exempt property having a value not exceeding twenty thousand dollars ($20,000.00) in:

(1) household furniture;

(2) automobiles;

(3) furnishings~~, jewelry,~~;

(4) appliances; and

(5) personal effects~~ of the deceased not valued at more than $100 per item~~.

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

~~613.6-6.~~ The ~~Land Commission, or its designated sub-committee, shall make a declaratory ruling~~

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~~by authority~~value of the ~~Administrative Procedures Act, Section 9, in any case brought before them by any person claiming to be an heir of the deceased and requesting any of the following determinations:~~

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

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

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

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

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

~~613.6-7. The Oneida Law Office attorney assigned to represent the Oneida Land Commission will assist the Commission Probate Hearing Body to prepare a file for each probate application received. A complete probate file shall contain:~~

~~(a) Application;~~

~~(b) Family history information;~~

~~(c) Death certificate;~~

~~(d) Personal and Real Property Inventory;~~

~~(e) BIA IIM Account Report;~~

~~(f) Creditor Claims, if any;~~

~~(g) Original will, if any;~~

~~(h) Names, addresses and phone numbers of all parties in interest;~~

~~(i) Affidavits of publishing and/or mailing demonstrating compliance with all notice provisions; and~~

~~(j) Waiver and consent forms to appoint and be appointed personal representative.~~

~~613.6-8. Definitions As Used In This Section~~

~~(a) Children And Issue: Includes adopted children and children of unwed parents where paternity has been acknowledged, or established by court decree. This does not include non-adopted step-children.~~

~~(b) Parties in interest: This includes:~~

~~(1) Heirs of the decedent~~

~~(2) A beneficiary named in any document offered for probate, such as the will of the decedent, land lease or sale agreement for real estate.~~

~~(3) A person named as administrator or personal representative in any document offered for probate.~~

~~(4) Additional persons as the Land Commission may by order include who may be affected by the actions of the Land Commission, or its designated sub-committee, whether by receipt of or denial of any property which is a part of the action.~~

~~(c) Heirs: Any person who is entitled under Tribal law to an interest in the property of a decedent.~~

~~613.6-9. *Parties in interest.* The~~ shall be determined net ~~estate of a decedent, not disposed of by will, passes to his/her surviving heirs or Parties in interest as follows:~~of any security interests.

(~~a) To the spouse:~~

~~(1) All Real Property.~~

~~(2) All other than Real Property if~~c) If there ~~are~~is no surviving spouse, the Decedent's children ~~of the decedent.~~

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~~(3) ½ of other than Real Property of the decedent's estate if there~~ are ~~surviving children of the decedent, or children of any deceased child of the decedent (grandchildren) who take by right of representation.~~

~~(b) To Surviving Children and children of any deceased child of the decedent by rights of representation;~~

~~(1) All of the estate if there is no surviving spouse, divided equally~~jointly entitled to ~~all in~~ the same ~~degree of kinship to the decedent. Surviving children of a deceased child of the decedent will divide their parent's share~~exemption.

(~~c) All of~~d) If the net value of qualifying exempt property is less than twenty thousand dollars ($20,000.00), the spouse or children may receive other estate assets sufficient to satisfy the ~~parents, equally divided~~deficiency.

(e) Rights to exempt property and assets used to satisfy a deficiency under subsection (d) have the priority established by section 613.17-6.

(f) The right to assets used to satisfy a deficiency abates as necessary to permit prior payment of the family allowance.

(g) Rights under this section are in addition to any benefit or share passing to the surviving spouse or children through:

(1) a will; or

(2) intestate succession.

(h) *Transfer by Affidavit*.

(1) A person receiving exempt property under this section shall execute a Transfer by Affidavit on a form approved by the Court.

(2) The affidavit shall:

(A) identify the Decedent;

(B) describe the property transferred;

(C) identify the person receiving the property;

(D) state the date of transfer; and

(E) be signed by the recipient and the Personal Representative or other person authorized to make the transfer.

(3) The Transfer by Affidavit shall be filed with the Court.

(4) A transfer of exempt property is not effective under this section until the affidavit is filed.

(5) Filing the affidavit does not determine ownership of property that is disputed or relieve a recipient from liability for property received without lawful authority.

613.18-7. *Family Allowance*.

(a) The following persons are entitled to a family allowance:

(1) the surviving spouse;

(2) minor children whom the Decedent was obligated to support; and

(3) children actually being supported by the Decedent.

(b) The allowance:

(1) shall be reasonable;

(2) shall be paid from estate funds;

(3) may be paid in a lump sum or periodic installments; and

(4) shall not provide support for a period extending beyond one (1) year after the Decedent's death.

(c) The allowance:

(1) is exempt from unsecured claims against the estate; and

(2) has priority established by section 613.17-6.

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(d) The allowance shall be paid:

(1) to the surviving spouse, if living, for the benefit of the surviving spouse and eligible children; or

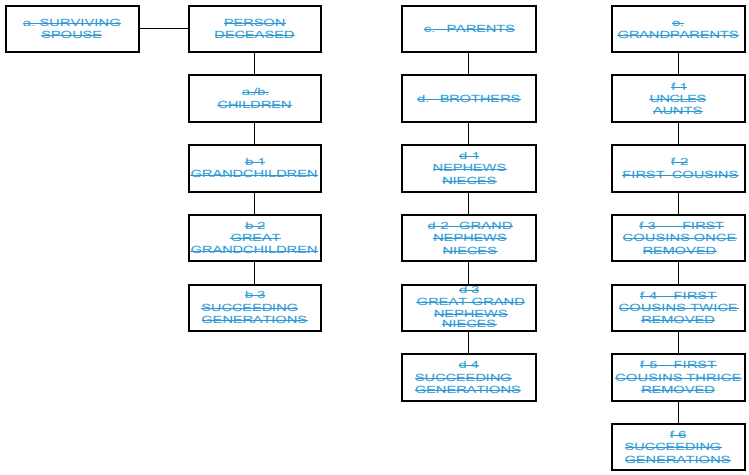
(2) if there is no surviving spouse, to the eligible children or ~~children taking by right of representation~~to the persons having their care and custody.

~~(d) All of the estate to the brothers and sisters and children of deceased brothers or sisters by representation, divided equally, If no~~ (e) If a minor or dependent child does not reside with the surviving spouse, ~~children, or parents.~~

~~(e) All of the estate to the grandparents of the deceased divided equally, if no surviving spouse, children parents or brothers and sisters.~~

~~(f) All of the estate divided equally to lineal descendants of the grandparents of the deceased in the same order as (b) thru (e) if no surviving spouse, children, parents brothers/sisters, or grandparents of the decedent.~~

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



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

~~613.6-10. When the Probate File is complete, the Oneida Law Office shall work with the Government Administrative Office (GAO) to set a hearing date for the Land Commission Probate Hearing Body to convene.~~

~~(a)~~ the allowance may be allocated according to the recipients'~~Notice: Unless the parties have consented to electronic service and delivery of documents, all parties in interest will be sent notice of the hearing to their current or last known address and shall also be posted in at least one issue of the Kalihwisaks and a newspaper of general circulation from the decedent's county of residence. The notice must include time and place for hearing, information for obtaining hearing materials and a contact person. All notices must be complete at least ten (10) days before the hearing takes place.~~

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

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

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

~~(3) Ample time is provided for full discussion of the process, presentation of~~

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~~additional data for the file, and defining of problems or disputes to be entered into the record.~~

~~(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.~~and needs:

~~(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 Declaratory Ruling to the Government Accountability Office (GAO), who will notify all parties involved in the hearing. This Final Ruling takes effect 60 days after mailings unless all parties in interest have waived their right to seek a rehearing before the Oneida Land Commission.~~

~~613.6-11. A party to a probate hearing may seek a rehearing of any of the above determinations listed in 8-3 upon provision of a written request to the Director of the Division of Land Management within 60 days after the Declaratory Ruling is issued. It is the responsibility of the aggrieved party to make certain that adequate documentation necessitating a rehearing is attached to the request.~~

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

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

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

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

~~613.6-12. The Government Accountability Office shall notice the Oneida Law Office of any petitions for rehearing and shall place any filed petitions on the first agenda of the Land Commission following the receipt of the petition.~~

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

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

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

~~613.6-13. Any Declaratory Ruling given under this Section may be appealed to the Judiciary within 30 days from the date of the Ruling. The Ruling is sent to the Parties in interest with same documentation outlined in 8-6.~~

~~613.6-14. A party may petition the Judiciary to reopen the case within three years after the Declaratory Ruling has been mailed out if they can prove all of the following:~~

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

~~(b) They were completely unaware that the first probate hearing occurred and they~~

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~~have proof that they were~~ (1) partially to the child, guardian, or other person having care and custody of the child; and

(2) partially to the surviving spouse.

(f) The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children through:

(1) a will; or

(2) intestate succession.

(g) The death of a person entitled to a family allowance terminates entitlement to unpaid future installments.

(h) A family allowance authorized before closing may continue after entry of the final order if:

(1) the allowance does not provide support for a period extending beyond one (1) year after the Decedent's death; and

(2) the final order identifies the amount remaining payable and provides for the source and manner of payment.

(i) The final order may direct that reserved funds be transferred to a trustee, custodian, guardian, or other person designated by the Court. Unless the order expressly provides otherwise, the discharged Personal Representative has no further responsibility after transfer of the reserved funds.

613.18-8. *Administration of Exempt Property and Family Allowance.*

(a) Specifically devised property shall not ~~duly noticed; and~~

~~(c) They have~~be used to satisfy exempt-property rights ~~which were erroneously left out of the first probate hearing.~~

~~613.6-15. After looking at the record of the first hearing, the Judiciary may rule that the Petition To Reopen is not~~ if other estate assets are sufficient~~, or it may send an order to the Land Commission to provide a second hearing based on the evidence provided in the Petition~~.

~~613.6-16. All probate Declaratory Rulings of the Land Commission or Judgments of the Judiciary shall be recorded in the Division of Land Management.~~

~~(a) If fee land is part of the Ruling, it~~(b) Property used to satisfy exempt-property rights may be selected by:

(1) the surviving spouse;

(2) a guardian of a minor child; or

(3) an adult child entitled to exempt property under section 613.18-6.

(c) The Personal Representative may select the property if the persons identified in subsection (b):

(1) fail to act within a reasonable time; or

(2) do not exist.

(d) The Personal Representative may execute instruments or deeds of distribution necessary to establish ownership of exempt property distributed under this section.

(e) Upon a timely request by an eligible person, the Personal Representative shall determine and provide a reasonable family allowance and may:

(1) authorize a lump-sum family allowance not exceeding eighteen thousand dollars ($18,000.00);

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(2) authorize periodic family-allowance payments not exceeding two thousand dollars ($2,000.00) per month, subject to the one-year limitation in section 613.18-7; and

(3) disburse estate funds in payment of the family allowance.

(f) An interested person aggrieved by a selection, determination, payment, proposed payment, or failure to act under this section may petition the Court for relief.

(g) Upon petition, the Court may:

(1) review the action of the Personal Representative;

(2) modify a selection, determination, or payment;

(3) approve a family allowance greater or less than the amount determined by the Personal Representative; or

(4) grant other appropriate relief.

(h) Relief under this section may be granted before entry of the final order closing the estate.

613.19. Inventory and Accounting

613.19-1. *Inventory of Estate Assets*.

(a) Within sixty (60) days after appointment, the Personal Representative shall prepare and file with the Court an inventory of the estate property subject to administration.

(b) The inventory shall describe the estate property with reasonable particularity and state the estimated fair market value of each asset as of the Decedent's date of death, to the extent reasonably ascertainable.

(c) The Court may extend the time for filing the inventory for good cause shown.

(d) Upon request of the Court or an interested person, the Personal Representative shall provide additional information concerning estate assets.

(e) Upon request, the Personal Representative shall provide a copy of the inventory to an interested person unless the Court limits disclosure for good cause to protect confidential information, estate property, or another legally protected interest.

613.19-2. *Supplemental Inventory*. If estate property is discovered after the filing of the inventory, the Personal Representative shall file a supplemental inventory within a reasonable time after discovery of the property.

613.19-3. *Accounting*.

(a) Prior to final distribution of an estate, the Personal Representative shall submit to the Court a final accounting of the administration of the estate.

(b) The accounting shall include:

(1) the inventory value of estate assets;

(2) property received by the estate after the filing of the inventory;

(3) all receipts, income, and gains received by the estate;

(4) all disbursements, expenses, and distributions made by the estate;

(5) the balance of assets remaining for distribution;

(6) a description of the proposed final distribution;

(7) any compensation requested by the Personal Representative;

(8) attorney fees or other professional fees for which approval is sought;

(9) any unpaid family allowance and the funds reserved or other arrangements made for payment; and

(10) any other information required by the Court.

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(c) The accounting shall demonstrate that all allowed claims, expenses of administration, taxes, and other obligations of the estate have been paid or provided for.

613.19-4. *Objections to Inventory or Accounting*.

(a) An interested person may file an objection to an inventory, supplemental inventory, or accounting if the person's rights or interests may be affected by the challenged matter.

(b) Objections shall be filed within the time established by the Court or prior to entry of an order approving final distribution.

(c) The objection shall ~~also be recorded at the County~~ identify the specific portion of the inventory or accounting being challenged and the basis for the objection.

(d) Upon objection, the Court shall determine the matter after notice and an opportunity to be heard.

613.19-5. *Approval of Accounting*.

(a) The Court shall review the accounting and determine whether the estate has been administered in accordance with this law.

(b) Upon approval of the accounting, the Court may authorize final distribution of the estate and payment of approved fees and expenses.

(c) Approval of the accounting constitutes approval of the acts fairly disclosed in the accounting, subject to relief for fraud, material misrepresentation, or material omission under section 613.7 or other applicable law.

613.20. Closing of Estate and Discharge

613.20-1. *Petition for Distribution and Closing*. Upon completion of the administration of the estate, the Personal Representative shall petition the Court for approval of final distribution and closing of the estate. The petition shall include:

(a) a statement that all known debts, expenses, and claims against the estate have been paid or provided for;

(b) a summary of distributions proposed or completed;

(c) a statement that all required accountings have been filed; and

(d) a request for discharge of the Personal Representative.

613.20-2. *Inactive Estates*.

(a) If no filing or other action has occurred in an estate for six (6) consecutive months, the Court may issue a notice requiring the Personal Representative to:

(1) file a status report;

(2) complete an overdue inventory, accounting, notice, distribution, or other required act;

(3) show cause why the Personal Representative should not be suspended or removed; or

(4) appear at a status hearing.

(b) After notice and an opportunity to be heard, the Court may:

(1) establish deadlines for completion of estate administration;

(2) issue appropriate case-management or protective orders;

(3) suspend or remove the Personal Representative under section 613.12-5;

(4) appoint a successor Personal Representative under section 613.12-7; or

(5) take other action necessary to protect the estate and interested persons.

(c) If no filing or other action has occurred for twelve (12) consecutive months after notice issued under subsection (a), the Court may administratively close the case without

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final distribution or discharge.

(d) Administrative closure under this section:

(1) does not approve an inventory or accounting;

(2) does not adjudicate ownership or distribution of estate property;

(3) does not discharge the Personal Representative or relieve any person from liability;

(4) does not affect a valid lien, claim, or property interest; and

(5) does not prevent reopening upon motion of an interested person or the Court's own initiative.

(e) Before administrative closure, the Court shall provide notice to the Personal Representative and interested persons and may enter orders necessary to protect estate property or require surrender of Domiciliary Letters.

613.20-3. *Notice*. Notice of the petition for closing shall be provided in accordance with section 613.16 to all interested persons.

613.20-4. *Order of Distribution*.

(a) Upon review of the petition, final accounting, proof of notice, and any objections, the Court shall enter an order approving final distribution consistent with this law.

(b) The Court may decide the petition without an additional hearing if no objection has been filed and the record is sufficient to support the requested relief.

(c) The final order may direct the reservation or transfer of funds necessary to satisfy an unpaid family allowance authorized under section 613.18-7.

613.20-5. *Discharge of Personal Representative*. Upon approval of the final distribution and completion of all required acts, the Court shall discharge the Personal Representative from further duties and liabilities relating to the administration of the estate. The discharge does not relieve the Personal Representative from liability for fraud, material misrepresentation, concealment, or acts or omissions not fairly disclosed in the probate proceeding.

613.20-6. *Effect of Closing*. The order closing the estate constitutes a final adjudication of the rights of heirs, devisees, beneficiaries, and creditors, subject to reopening under section 613.15-8, relief for fraud under section 613.7, or other relief authorized by applicable law.

613.21. Small Estate Procedure.

613.21-1. *Eligibility*. If the gross fair market value of property subject to administration under this law does not exceed fifty thousand dollars ($50,000.00) as of the Decedent's death, the estate may be administered under this section.

613.21-2. *Transfer by Affidavit*.

(a) A qualifying small estate may be distributed without commencement of a probate proceeding by a Transfer by Affidavit executed by:

(1) an heir;

(2) a devisee;

(3) a trustee of a trust created by the Decedent;

(4) a person nominated as Personal Representative in the will; or

(5) another person authorized by an existing Court order.

(b) By accepting estate property, the affiant assumes a fiduciary duty to:

(1) pay or provide for enforceable debts and expenses;

(2) distribute the remaining property to the persons legally entitled to receive it;

(3) maintain records of receipts and distributions; and

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(4) return or reimburse property improperly received.

(c) Before distributing property, the affiant shall make reasonable provision for enforceable debts, administration expenses, funeral and burial expenses, family rights, and other obligations having priority under this law.

(d) The affidavit shall be filed with the Oneida Register of Deeds. An affidavit affecting fee land shall also be recorded with the appropriate county register of deeds.

~~(b) If trust land is part~~(e) A small estate may not proceed under this section if:

(1) a dispute exists regarding the validity of ~~the Ruling, it shall also~~a will, heirship, ownership, or distribution;

(2) a minor or incapacitated person's interest cannot be ~~recorded at~~adequately protected;

(3) the ~~Department~~estate is insolvent or creditor claims are disputed; or

(4) the Court determines that probate administration is necessary.

(f) An interested person may petition the Trial Court for relief from an improper or disputed transfer.

613.21-3. *Effect of* ~~Interior Aberdeen Title Plant~~*Transfer*. A person or entity holding estate property may rely on a Transfer by Affidavit that appears complete and regular on its face. A transfer made in good faith reliance on the affidavit has the same effect as a transfer by a duly appointed Personal Representative.

613.22. Enforcement of Probate Orders

613.22-1. *Turnover and Protection of Estate Property.*

(a) A person possessing or controlling property reasonably believed to belong to an estate shall, upon written request of the Personal Representative, disclose the location and condition of the property and surrender the property unless:

(1) the person asserts a good-faith ownership or possessory claim; or

(2) the Court orders otherwise.

(b) The Personal Representative or an interested person may petition the Court for an order requiring:

(1) disclosure of estate property;

(2) an accounting concerning the property;

(3) turnover or delivery of the property;

(4) preservation of the property;

(5) access to premises or records;

(6) restitution for loss, damage, or unauthorized use; or

(7) other relief necessary to protect the estate.

(c) After notice and an opportunity to be heard, the Court may determine possession or control of property and enter an order necessary to preserve or recover estate property.

(d) If the Court finds that a person knowingly failed to comply with an order concerning estate property, the Court may exercise its contempt authority under the Judiciary Law and may order:

(1) turnover of the property;

(2) restitution to the estate;

(3) payment of reasonable costs and attorney fees caused by the noncompliance;

(4) payment of additional reasonable Personal Representative compensation attributable to the noncompliance; and

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(5) any other lawful remedial sanction.

(e) Upon a finding that voluntary compliance is unlikely or immediate action is necessary to prevent concealment, transfer, loss, or damage, the Court may issue any writ or order authorized by applicable law directing an appropriate law-enforcement officer to assist in securing or recovering specifically identified estate property.

(f) An order issued under subsection (e) shall describe the property with reasonable particularity and shall comply with all requirements applicable to entry, search, seizure, inventory, custody, and return of property.

(g) Nothing in this section authorizes a search, entry, or seizure inconsistent with applicable law.

End.

Emergency Adoption—BC-04-22-26-E
Emergency ~~Extension~~—Extended—BC-10-26-14-~~26~~-D
Adopted-BC-XX-XX-XX-X

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Title 6. Property and Land – Chapter 613
PROBATE

613.1. Purpose and Policy
613.2. Adoption, Amendment, Repeal
613.3. Definitions
613.4. Construction
613.5. Jurisdiction
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613.16. Notice
613.17. Creditors and Claims
613.18. Family Rights
613.19. Inventory and Accounting
613.20. Closing of Estate and Discharge
613.21. Small Estate Procedure
613.22. Enforcement of Probate Orders

613.1. Purpose and Policy

613.1-1. *Purpose.* The determination of how property is disposed of upon a person's death is an inherent exercise of the Nation's sovereignty and right of self-governance. The purposes of this law are to:

(a) ensure the orderly and lawful transfer of a Decedent's property to the rightful heirs or beneficiaries;

(b) honor and give effect to the Decedent's expressed intent to the greatest extent permitted by law;

(c) incorporate and uphold Oneida customs, traditions, and cultural values in the administration of estates;

(d) establish a clear, efficient, and cost-effective process for the administration and probate of estates;

(e) preserve and protect Oneida land and property interests by favoring continued ownership or control by the Nation or Oneida citizens to the fullest extent permitted by applicable law; and

(f) provide a fair and balanced process for the identification and satisfaction of legitimate creditor claims.

613.1-2. *Policy.*

(a) It is the policy of the Nation that lands owned by Oneida citizens at the time of their death shall, to the fullest extent permitted by applicable law, remain under the ownership or control of the Nation or Oneida citizens.

(b) The administration of this law shall be guided by the principles of the Good Mind, as expressed by Onʌyoteʔa·ká, ensuring that probate processes are carried out in a manner that reflects the Nation's values, promotes harmony, and sustains community well-being.

(c) The principles of the Good Mind include:

(1) Kahletsyalúsla. The heartfelt encouragement of the best in each of us.

(2) Kanolukhwásla. Compassion, caring, identity, and joy of being.

(3) Kaʔnikuhli·yó. The openness of the good spirit and mind.

(4) Kaʔtshatstʌ́sla. The strength of belief and vision as a People.

(5) Kalihwi·yó. The use of the good words about ourselves, our Nation, and our future.

(6) Twahwahtsílayʌ. All of us are family.

(7) Yukwatsístayʌ. Our fire, our spirit within each one of us.

(d) These principles shall inform the interpretation and implementation of this law to ensure that probate proceedings reflect not only legal standards, but also the cultural integrity and

collective values of the Nation.

613.2. Adoption, Amendment, Repeal

613.2-1. This law was adopted by the Oneida Business Committee by resolution BC-04-22-26-E, extended by resolution BC-10-14-26-D, and amended by resolution BC-XX-XX-XX-X.

613.2-2. This law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

613.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

613.2-4. *Conflicts and Order of Priority*.

(a) Applicable federal law controls over this law to the extent of any conflict.

(b) This law controls over any conflicting provision of another law of the Nation with respect to probate matters governed by this law, unless the other law expressly provides otherwise.

(c) A will, agreement, beneficiary designation, or other probate or estate-planning document is enforceable only to the extent it is consistent with this law and applicable federal law.

(d) The validity or effect of an order entered in a probate proceeding shall be addressed through reconsideration, appeal, or other judicial relief available under the Judiciary Law.

613.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

613.3. Definitions

613.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Administration expenses" means costs reasonably incurred in administering an estate, including Court costs, filing fees, attorney fees, Personal Representative compensation, appraisal costs, accounting costs, publication expenses, expenses necessary to preserve estate assets, and reasonable mortgage, lease, insurance, tax, and utility payments necessary to preserve an estate residence under section 613.18-5.

(b) "Administration of an estate" means the acts undertaken by a Personal Representative to collect, manage, preserve, value, protect, distribute, and otherwise settle estate property. Administration of an estate does not include the Court's determination of probate matters or the Court Clerk's performance of ministerial and case-management functions.

(c) "Beneficiary" means a person entitled to receive or benefit from property under a will, governing instrument, Court order, or other transfer governed by this law.

(d) "By right of representation" or "per stirpes" means a method of distributing property among descendants under which each surviving child and each deceased child who left one or more surviving descendants represents one equal family branch. A deceased child's branch share passes to that child's surviving descendants and is divided among them in the same manner at each succeeding generation under section 613.13-5.

(e) "Child" means a natural child and a child adopted under applicable law.

(1) An adopted individual is the child of the adoptive parent or parents for all purposes under this law.

(2) An adopted individual may inherit from and through the individual's natural parent or parents unless otherwise provided by a valid governing instrument.

(3) A natural parent whose parental rights were terminated before the child's death may not inherit from or through the child and shall be treated as having predeceased the child.

(4) Termination of a natural parent's right to inherit from or through the child does not terminate the child's right to inherit from or through the natural parent.

(5) A customary adoption documented or otherwise recognized by the Nation may establish a parent-child relationship for purposes of this law upon a finding by the Court that recognition is consistent with Oneida custom and the purposes of this law.

(f) "Court" means the Oneida Trial Court.

(g) "Covered permanent improvements" means buildings, other structures, and associated infrastructure attached to trust or restricted land, as well as any interests in such improvements.

(h) "Decedent" means a person who has died, whether testate or intestate.

(i) "Descendant" means a child of an individual or a child of that child in any succeeding generation.

(j) "Devise" means a gift of property by will or to give a gift of property by will.

(k) "Devisee" means a person or entity designated in a will to receive a devise.

(l) "Escheat" means reversion of property to the Nation because no valid heir or person to inherit exists.

(m) "Estate" means all property owned by a Decedent at the time of death and subject to administration or distribution under a valid will or, to the extent not effectively disposed of by a valid will, under this law.

(n) "Good cause" means a substantial reason supported by facts demonstrating that the requested action is necessary to promote fairness, protect interested persons, preserve estate assets, or facilitate efficient administration.

(o) "Heir" means any person who is entitled under the law governing intestate succession to an interest in the property of a Decedent.

(p) "Interested Person" means a person whose property rights, financial interests, or other legally protected interests may be affected by a probate proceeding. The term includes:

(1) heirs;

(2) beneficiaries and devisees;

(3) Personal Representatives and nominated Personal Representatives;

(4) creditors;

(5) persons with an ownership, possessory, or contractual interest in estate property; and

(6) any other person determined by the Court to have a sufficient interest in the estate or proceeding.

(q) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying without leaving a valid will effectively disposing of all the estate.

(r) "Intestate succession" means succession to property of a Decedent who dies intestate or partially intestate.

(s) "Issue" means an individual's descendants, including children, grandchildren, great-grandchildren, and descendants in succeeding generations. Property passing to issue by right of representation shall be distributed per stirpes under section 613.13-5.

(t) "Life estate" means an interest in property held for only the duration of a designated person's life.

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(u) "Nation" means the Oneida Nation.
(v) "Oneida citizen" means an enrolled member of the Nation.
(w) "Personal property" means property other than real property and does not include trust or restricted land. Personal property may include a permanent improvement, possessory interest, leasehold interest, residential lease, or other separately owned interest located on trust, restricted, or Nation-owned land.
(x) "Personal Representative" means a person or entity appointed by the Trial Court to administer an estate. A Personal Representative nominated in a will is commonly referred to as an executor. A Personal Representative appointed when a Decedent dies without a valid will is commonly referred to as an administrator. In this law, "Personal Representative" includes both an executor and an administrator.
(y) "Probate" means a general term for the entire process of administration of estates of deceased persons, including those without wills.
(z) "Property" means any interest, legal or equitable, in real or personal property, without distinction as to kind.
(aa) "Real property" means any legal or equitable interest in land including an improvement that is legally part of the land.
(bb) "Reservation" means all the property within the exterior boundaries of the Reservation of the Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566, and any lands added thereto pursuant to federal law.
(cc) "Spouse" means a person who, at the time of the Decedent's death, was:
(1) married to the Decedent under the Marriage Law or under the laws of another jurisdiction; or
(2) a party with the Decedent to a domestic partnership or substantially similar legal relationship validly established under the laws of the Nation or another jurisdiction and recognized for inheritance or probate purposes under the law of the jurisdiction in which the relationship was established.
(dd) "Testator" means a person who makes or has made a will.
(ee) "Trial Court" means the Oneida Trial Court that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.
(ff) "Trust or restricted land" means land, or an interest therein, title to which is held by the United States in trust for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation.
(gg) "Will" means a written document executed with the required formalities and intended to facilitate the passage of the Decedent's property. The required formalities may be provided by this law, federal law, or both this law and federal law.

613.4. Construction

613.4-1. This law shall be liberally construed to effectuate its purposes and to promote the orderly and equitable administration of estates. Where a valid will exists, the provisions of this law shall be interpreted to give effect to the Decedent's lawful intent to the fullest extent permitted by applicable law. Where no valid will exists, this law shall be construed to ensure distribution in accordance with its intestate succession provisions.

613.4-2. *Reference to Other Laws*. In the absence of controlling provisions in this law, the Trial Court may apply applicable federal law, the laws of other tribal nations, the law of the State of Wisconsin, and generally recognized principles of common law, including uniform or model

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probate laws, provided such application is consistent with this law and the Nation's sovereignty.

613.5. Jurisdiction

613.5-1. The Oneida Trial Court has jurisdiction over probate matters arising under this law.

613.5-2. Jurisdiction under this law may be established by:

(a) the status of the Decedent as an enrolled Oneida citizen residing on the Oneida Reservation at the time of death;

(b) the Decedent's ownership of, or interest in, a permanent improvement, possessory interest, leasehold interest, residential lease, or other property interest located on Nation-owned land or otherwise subject to the Nation's jurisdiction, regardless of whether the Decedent is an enrolled member of the Nation; or

(c) both.

613.5-3. The jurisdictional bases identified in section 613.5-2 are independent of one another. Jurisdiction under this law does not require that more than one jurisdictional basis apply.

613.5-4. *Authority of the Court*. In exercising jurisdiction under this law, the Oneida Trial Court may:

(a) appoint Personal Representatives;

(b) determine heirs, beneficiaries, and devisees;

(c) determine the validity and effect of wills;

(d) conduct probate hearings and determine matters arising in probate proceedings;

(e) approve distributions of estate property;

(f) determine the ownership and valuation of estate property when disputed; and

(g) adjudicate matters involving permanent improvements, possessory interests, leasehold interests, residential leases, and other property interests subject to the Nation's jurisdiction.

613.5-5. *Trust and Restricted Land; Federal Jurisdiction*.

(a) The probate of trust or restricted land and trust personalty, including Individual Indian Money (IIM) accounts, is governed exclusively by applicable federal law.

(b) The Trial Court has no jurisdiction over the probate, descent, devise, or distribution of trust or restricted land or trust personalty except as expressly authorized by federal law.

(c) This law applies only to the extent consistent with applicable federal law and shall not be interpreted to alter, supersede, or affect the federal administration or probate of trust or restricted land or trust personalty.

(d) A person who qualifies as an heir, beneficiary, or devisee under this law may nevertheless be ineligible to inherit trust or restricted land or trust personalty if federal law limits or restricts inheritance of that interest. Eligibility to inherit trust or restricted land or trust personalty shall be determined in accordance with applicable federal law.

613.6. Application and Property Classification

613.6-1. *Applicability*. This law applies to estates over which the Oneida Trial Court has jurisdiction under section 613.5.

613.6-2. *Missing Heirs*. If, after reasonable diligence, an heir cannot be located, the Court may take appropriate action to protect the interests of the estate and all interested persons. Such action may include:

(a) holding the interest in trust, reserve, or other protected status pending identification or location of the heir;

(b) authorizing distribution of estate property to other eligible heirs while reserving the

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missing heir's interest or proceeds attributable to that interest;

(c) authorizing the sale or transfer of the interest to the Nation or to an eligible heir at fair market value, where the Court determines such action is in the best interest of the estate; or

(d) any other equitable remedy consistent with this law.

(e) Proceeds attributable to a missing heir shall be preserved for five (5) years after entry of the final order of distribution. The missing heir may claim the proceeds during that period upon proof of entitlement. If no valid claim is made within five (5) years, the proceeds shall escheat to the Nation unless the Court orders otherwise for good cause.

(f) This section does not apply to trust or restricted property except as permitted by federal law.

613.6-3. *Escheat.* In the absence of an heir or devisee entitled to receive estate property, the property shall escheat to the Nation.

613.6-4. *Distribution of Certain Personal and Cultural Property*.

(a) Personal property not otherwise governed by this law, including low-value personal property, may be distributed by the family in accordance with custom and practice without appointment of a Personal Representative or further probate proceedings.

(b) Culturally significant property, including ceremonial items, regalia, heirlooms, traditional artifacts, and other cultural property, may be distributed by the family before completion of the probate proceeding in accordance with the customs and traditions of the Nation, to the extent consistent with the Decedent's known wishes, or, if such wishes are unknown, in a manner consistent with the customs and traditions of the Nation.

(c) A person distributing property under this section shall document the transfer by a Transfer by Affidavit filed with the Oneida Register of Deeds on a form approved by the Court if:

(1) the property is culturally significant;

(2) title, registration, or proof of ownership is ordinarily required to transfer the property;

(3) the aggregate fair market value of property transferred to a recipient exceeds one thousand dollars ($1,000); or

(4) the Court otherwise requires documentation.

(d) The affidavit shall identify the Decedent, describe the property, identify the recipient, state the date of transfer, and be signed by the person making the transfer.

(e) Failure to file an affidavit does not determine ownership of disputed property or protect a person who transferred property without lawful authority.

(f) Property may not be distributed under this section in a manner that impairs an exempt-property right under section 613.18-6 or a valid ownership interest of another person.

613.6-5. *Preference for Retention of Oneida Lands*. In administering estates involving fee lands within the Reservation owned by Oneida citizens, the Court shall favor distributions, settlements, and partitions that preserve ownership and control by the Nation or Oneida citizens whenever reasonably possible and consistent with law.

613.7. Effects of Fraud and Evasion

613.7-1. Whenever fraud has been perpetrated in connection with a proceeding under this law or used to avoid or circumvent this law, a person injured thereby may obtain appropriate relief against the person who committed the fraud.

(a) An action under this section against a person who committed the fraud must be commenced within two (2) years after the fraud is discovered or reasonably should have

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been discovered.

(b) An action under this section against a person who benefited from the fraud but did not participate in, direct, or knowingly assist in the fraud must be commenced not later than five (5) years after the fraudulent act occurred, regardless of when the fraud is discovered.

(c) The five (5) year limitation applicable to innocent beneficiaries does not apply to a person who committed, directed, concealed, or knowingly participated in the fraud.

(d) This section does not affect remedies relating to fraud committed against a Decedent during the Decedent's lifetime that affected the succession of the Decedent's estate.

613.7-2. The remedies provided by this section are cumulative and are in addition to any other remedies available under this law or other applicable law.

613.8. Evidence as to Death or Status

613.8-1. In proceedings under this law, death and status may be established as follows:

(a) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie proof of the fact, place, date, and time of death and the identity of the Decedent;

(b) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that a person is missing, detained, dead, or alive, is prima facie evidence of the status and of the dates, circumstances, and places disclosed by the record or report;

(c) A person who is absent for a continuous period of five (5) years, during which the person has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is presumed to be dead. The person's death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

613.9. Commencement of Probate Proceedings

613.9-1. *Commencement*. A probate proceeding is commenced by filing a petition with the Trial Court requesting one or more of the following:

(a) appointment of a Personal Representative;

(b) determination of heirs, beneficiaries, or devisees;

(c) admission of a will to probate;

(d) distribution of a Decedent's estate; or

(e) such other relief as may be appropriate under this law.

613.9-2. *Contents of Petition*. The petition shall include, to the extent known:

(a) the identity of the Decedent;

(b) the date and place of death;

(c) the Decedent's last known domicile or residence;

(d) the names and addresses of known heirs, beneficiaries, devisees, and other interested persons;

(e) a general description of the estate property;

(f) the identity of any proposed Personal Representative;

(g) whether the Decedent died testate or intestate;

(h) if a will is offered for probate, the original will or an explanation of its unavailability; and

(i) the relief requested.

613.9-3. *Review of Petition*. Upon filing, the Court shall assign a case number and review the petition for completeness. The Court Clerk may require additional information or documentation reasonably necessary to:

(a) identify interested persons;

(b) determine jurisdiction;

(c) determine the existence and nature of estate property; and

(d) facilitate administration of the estate.

613.9-4. *Initial Probate Hearing***.** Unless otherwise provided by this law or ordered by the Court, each probate proceeding shall begin with an Initial Probate Hearing conducted in accordance with section 613.10.

613.9-5. *Unified Probate Proceeding***.** A probate matter commenced under this law is a single proceeding governing the administration and distribution of the Decedent's estate. The Court may conduct additional hearings and issue orders as necessary to determine matters arising during administration of the estate.

613.9-6. *Further Proceedings*. No separate petition is required for the determination of heirs, admission of a will, appointment of a Personal Representative, distribution of estate property, or other relief within the scope of a pending probate proceeding. A party requesting relief shall file any motion, objection, or other document required by this law or Court rule and provide notice as required by section 613.16.

613.9-7. *Forms and Administrative Procedures.* The Trial Court may develop and approve forms, filing requirements, case-management procedures, and administrative practices necessary to implement this law, consistent with applicable law.

613.10. Initial Probate Hearing

613.10-1. *Scheduling.*

(a) Except as provided in subsection (b), the Court shall conduct an Initial Probate Hearing within thirty (30) days after the petition is filed unless extraordinary circumstances require a later hearing date.

(b) If publication is required under section 613.16-5(d), the Court shall conduct the Initial Probate Hearing on the earliest practicable date that is at least fourteen (14) calendar days after the required notice is first published and posted.

(c) If the Initial Probate Hearing is conducted more than thirty (30) days after the petition is filed, the Court shall state the reason for the later hearing date in the record.

613.10-2. *Notice*. Notice of the Initial Probate Hearing shall be provided in accordance with section 613.16 to:

(a) the petitioner;

(b) any proposed or nominated Personal Representative;

(c) known heirs, beneficiaries, and devisees;

(d) persons having a known ownership, possessory, or contractual interest in estate property; and

(e) any other interested person identified by the Court.

613.10-3. *Purpose*. At the Initial Probate Hearing, the Court may:

(a) determine whether the Court has jurisdiction;

(b) determine whether notice has been properly provided;

(c) identify heirs, beneficiaries, devisees, and other interested persons;

(d) determine whether the Decedent died testate or intestate;

(e) admit a will to probate when its validity is established and no objection requiring

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further proceedings has been raised;
(f) appoint a qualified Personal Representative who is willing to serve;
(g) determine whether a bond is required;
(h) identify and classify known estate property;
(i) identify objections, contested matters, or issues requiring additional evidence;
(j) advise interested persons of the availability of peacemaking and mediation pursuant to section 801.6 of the Judiciary Law;
(k) establish deadlines for inventory, notice to creditors, accountings, or other filings consistent with the deadlines and extension standards established by this law; and
(l) issue any interim or procedural order necessary to facilitate administration of the estate.

613.10-4. *Initial Probate Order*. Following the Initial Probate Hearing, the Court shall enter an order addressing the matters determined at the hearing. The order may:
(a) admit a will to probate;
(b) determine heirs, beneficiaries, or devisees to the extent supported by the available record;
(c) appoint the Personal Representative and direct issuance of Domiciliary Letters upon qualification under section 613.12-2;
(d) require a bond;
(e) establish deadlines for administration of the estate consistent with the deadlines and extension standards established by this law;
(f) identify matters reserved for later determination;
(g) stay the probate proceeding to allow peacemaking or mediation when the Court determines that a stay will facilitate resolution without creating undue delay or risk to estate property;
(h) during a stay, authorize acts necessary to preserve estate property, pay priority expenses, maintain insurance, comply with tax obligations, or prevent material loss; and
(i) grant other relief appropriate at that stage of the proceeding.

613.10-5. *Unresolved or Contested Matters*. If an objection or contested matter cannot be resolved at the Initial Probate Hearing, the Court may:
(a) establish a briefing or discovery schedule;
(b) schedule an evidentiary or other hearing;
(c) refer the parties to peacemaking or mediation with their consent;
(d) enter temporary or protective orders; or
(e) take any other action necessary to resolve the matter and protect the estate and interested persons.

613.11. Proceedings Following Initial Probate Hearing

613.11-1. *Administration Following Appointment*. After appointment, the Personal Representative shall administer the estate in accordance with this law, the Decedent's valid will, and orders of the Court.

613.11-2. *Ministerial and Case-Management Functions*. Consistent with Court rules and the direction of the Court, the Court Clerk may:
(a) review filings for completeness;
(b) request required information or documentation;
(c) issue notices and schedule hearings;
(d) receive and maintain inventories, accountings, creditor claims, proofs of notice, and

other filings;
(e) calculate or collect authorized filing fees;
(f) maintain the probate record;
(g) provide parties with Court-approved forms and procedural information;
(h) refer filings requiring action to the Court; and
(i) perform any other ministerial or case-management function authorized by Court rule or order.

613.11-3. *Judicial Determinations*. The Court shall determine:
(a) the validity and admission of a will;
(b) heirship when a determination is required;
(c) appointment, suspension, or removal of a Personal Representative;
(d) contested creditor claims;
(e) objections to an inventory, accounting, proposed distribution, or action of a Personal Representative;
(f) disputed ownership or valuation of estate property;
(g) approval of final distribution;
(h) discharge of a Personal Representative and closing of an estate;
(i) enforcement of probate orders and remedial relief under section 613.22; and
(j) any other matter requiring the exercise of judicial discretion.

613.11-4. *Requests for Court Action*. A Personal Representative or interested person may request instructions, approval, interpretation, or other relief from the Court at any time before the estate is closed.

613.11-5. *Additional Hearings*. The Court may conduct additional hearings when necessary to resolve an objection, determine a contested matter, review administration of the estate, protect estate property, or enter an order required by this law.

613.11-6. *No Hearing Required for Ministerial Matters*. Unless otherwise required by this law or ordered by the Court, a hearing is not required for a filing or action that does not require judicial determination.

613.12. Personal Representatives

613.12-1. *Appointment of Personal Representative*.
(a) The Court may appoint a Personal Representative to administer the estate of a Decedent.
(b) Appointment ordinarily shall be made at the Initial Probate Hearing after notice and an opportunity to be heard.
(c) The Court may appoint a Personal Representative at a later hearing or by another procedure authorized by this law when:
(1) appointment cannot reasonably be completed at the Initial Probate Hearing;
(2) the previously appointed Personal Representative is unable or unwilling to continue serving;
(3) a successor Personal Representative is required; or
(4) good cause otherwise exists.
(d) A competent adult or qualified entity may serve as Personal Representative.
(e) Preference for appointment shall be given in the following order:
(1) a person nominated in the Decedent's valid will;
(2) the surviving spouse;
(3) adult children of the Decedent, in descending order of age;

(4) a person nominated by unanimous agreement of the heirs and devisees;
(5) other heirs in order of priority under the laws of intestate succession; or
(6) any other qualified enrolled Oneida citizen whom the Court determines is suitable to serve.

(f) The Court may appoint a person with lower priority or decline to appoint a person with higher priority upon finding that doing so is in the best interests of the estate.

(g) If a Decedent dies partially testate and partially intestate, a single Personal Representative shall administer the entire estate unless the Court orders otherwise.

(h) If administration of an estate is required and no person with statutory priority is willing or qualified to serve, the Court may appoint a qualified neutral person, licensed fiduciary, attorney, agency, or other suitable entity as Personal Representative.

613.12-2. *Acceptance, Bond, and Letters*.

(a) Before Domiciliary Letters are issued, the Personal Representative shall file a signed acceptance of appointment affirming that the Personal Representative will faithfully and honestly perform the duties of office according to this law and orders of the Court.

(b) Upon a showing of good cause, the Court may require a Personal Representative to file a bond in an amount determined by the Court to ensure the faithful performance of the Personal Representative's duties.

(c) A bond shall not be required unless ordered by the Court.

(d) In determining whether a bond is necessary, the Court may consider:

(1) the value and nature of the estate;
(2) whether the Personal Representative is a family member of the Decedent;
(3) any objection raised by an interested person;
(4) any prior misconduct, conflict of interest, or financial concern relating to the Personal Representative; and
(5) any other circumstance relevant to protecting the estate and interested persons.

(e) A bond should ordinarily be considered when the value of the estate exceeds five hundred thousand dollars ($500,000.00), unless the Court determines that a bond is unnecessary under the circumstances.

(f) Upon filing the acceptance of appointment and filing any required bond, the Personal Representative shall be issued Domiciliary Letters under seal of the Court as evidence of the Personal Representative's authority to act on behalf of the estate.

613.12-3. *Powers of Personal Representative*. Subject to this law and the supervision of the Court, a Personal Representative may:

(a) take possession of, collect, preserve, and manage estate property;
(b) access, open, maintain, and close estate accounts;
(c) protect and insure estate property;
(d) pay approved expenses, claims, debts, taxes, and obligations of the estate;
(e) prosecute, defend, settle, compromise or otherwise resolve claims and disputes involving the estate;
(f) sell, transfer, lease, or otherwise dispose of estate property as authorized by law or Court order;
(g) execute deeds, assignments, receipts, releases, and other documents necessary to administer the estate;
(h) distribute estate property to heirs and beneficiaries; and
(i) perform any other act reasonably necessary to administer the estate.

613.12-4. *Duties of Personal Representative.* A Personal Representative is a fiduciary of the

estate and shall administer the estate in good faith, with loyalty, prudence, and care. In carrying out those duties, the Personal Representative shall act impartially toward interested persons and shall:

(a) act in the best interests of the estate;
(b) identify and protect estate property;
(c) identify heirs, beneficiaries, and other interested persons;
(d) file inventories, accountings, and reports required by this law or the Court;
(e) give notices required by this law;
(f) review and address creditor claims;
(g) comply with all lawful orders of the Court;
(h) maintain adequate records concerning estate administration; and
(i) distribute the estate in accordance with this law, the Decedent's will, and orders of the Court.

613.12-5. *Removal or Suspension*.

(a) The Court may remove or suspend a Personal Representative for good cause, including:
(1) refusal or failure to perform a duty required by this law or an order of the Court;
(2) mismanagement, waste, or neglect of estate property;
(3) failure to provide required inventories, reports, or accountings;
(4) a conflict of interest that materially interferes with administration of the estate;
(5) physical or legal incapacity, persistent unwillingness, or other inability to continue administering the estate; or
(6) any other conduct that jeopardizes the proper administration of the estate.
(b) Removal proceedings may be initiated by:
(1) any interested person; or
(2) the Court on its own motion.
(c) Except in emergency circumstances, the Personal Representative shall receive notice and an opportunity to be heard in accordance with section 613.16 before removal.
(d) The Court may temporarily suspend a Personal Representative pending a hearing when necessary to protect the estate or interested persons.

613.12-6. *Resignation of Personal Representative*.

(a) A Personal Representative may resign by filing a written notice of resignation with the Court.
(b) The written notice shall:
(1) state the requested effective date of the resignation;
(2) describe the status of estate administration;
(3) identify any known deadlines, pending claims, contested matters, or property requiring immediate protection;
(4) identify any proposed successor Personal Representative, if known; and
(5) include an accounting or request additional time to file an accounting.
(c) The Personal Representative shall provide notice of the requested resignation in accordance with section 613.16 to:
(1) interested persons; and
(2) any proposed successor Personal Representative.
(d) The Court shall permit the Personal Representative to resign and may enter orders reasonably necessary to:

(1) establish the effective date of the resignation;
(2) protect estate property;
(3) require completion of an accounting;
(4) require transfer of estate property, records, accounts, and documents;
(5) appoint a successor Personal Representative; and
(6) provide for any other matter necessary to ensure an orderly transition of administration.

(e) A resignation becomes effective on the date established by Court order. The Court may delay the effective date only for the time reasonably necessary to protect the estate and arrange for continued administration.

(f) Until the resignation becomes effective, the Personal Representative shall:
(1) continue performing duties necessary to preserve estate property;
(2) avoid making a distribution or taking another material action not reasonably necessary to protect the estate, unless authorized by the Court; and
(3) comply with the Court's transition orders.

(g) Resignation does not relieve a Personal Representative from liability for an act or omission occurring before the resignation becomes effective.

(h) Upon approval of the accounting and completion of the required transfer, the Court may discharge the resigning Personal Representative from further duties relating to administration of the estate.

613.12-7. *Successor Personal Representative*.

(a) Upon the death, resignation, suspension, removal, or incapacity of a Personal Representative, the Court may appoint a successor Personal Representative in accordance with the priorities established in section 613.12-1.

(b) A successor Personal Representative has the same powers and duties as the original Personal Representative, except as limited by the Court.

(c) A former Personal Representative shall promptly transfer all estate property, records, accounts, and documents to the successor Personal Representative and comply with any Court order governing the transition.

(d) The Court may require a final accounting before discharging a former Personal Representative.

(e) Removal, resignation, or replacement does not relieve a former Personal Representative from liability for an act or omission occurring during that person's administration of the estate.

613.13. Intestate Estates

613.13-1. *Applicability*. This section governs the distribution of property not effectively disposed of by a valid will.

613.13-2. *Advancements*. If a person dies intestate as to all or part of the person's estate, property the Decedent gave during the Decedent's lifetime to an heir is treated as an advancement against the heir's share only if the Decedent declared that intent in a contemporaneous writing or the heir acknowledged the advancement in writing. For this purpose, the property advanced is valued as of the time the heir came into possession or enjoyment of the property or as of the time of death of the Decedent, whichever first occurs. If the recipient of the property fails to survive the Decedent, the property is not taken into account in computing the intestate share to be received by the recipient's issue, unless the declaration or acknowledgment provides otherwise.

613.13-3. *Effect of Homicide on Succession*.

(a) A person who intentionally and unlawfully causes the death of a Decedent shall not inherit from the Decedent or receive any benefit under this law.
(b) The estate shall be distributed as if the person predeceased the Decedent.
(c) This section applies to all transfers at death governed by this law, including intestate succession, testamentary transfers, and nonprobate transfers including beneficiary designations, insurance proceeds, and other distributions of property at death.
(d) A final criminal conviction establishing that a person intentionally and unlawfully caused the Decedent's death conclusively establishes that this section applies. In the absence of a final conviction, an interested person may petition the Court for a determination. After notice and an opportunity to be heard, the Court shall determine by a preponderance of the evidence whether the person intentionally and unlawfully caused the Decedent's death. A determination under this subsection governs only the person's rights and benefits arising from the Decedent's death and does not constitute a criminal conviction.

613.13-4. *Intestate Succession*. The net estate of a Decedent not effectively disposed of by a valid will passes to the Decedent's heirs as follows:
(a) *Surviving Spouse Only*. If the Decedent is survived by a spouse but no descendants, the surviving spouse receives:
(1) all real property; and
(2) all other estate property.
(b) *Surviving Spouse and Descendants*.
(1) If the Decedent is survived by a spouse and one or more descendants, the surviving spouse receives:
(A) all real property; and
(B) one-half (1/2) of the Decedent's non-real property.
(2) The remaining one-half (1/2) of the Decedent's non-real property passes to the Decedent's descendants by right of representation, or per stirpes, under section 613.13-5.
(c) *Descendants and No Surviving Spouse*. If the Decedent is not survived by a spouse but is survived by one or more descendants, the entire estate shall pass to the Decedent's descendants by right of representation, or per stirpes, under section 613.13-5.
(d) *Parents.* If the Decedent is not survived by a spouse or descendants, the entire estate shall pass equally to the Decedent's surviving parent or parents.
(e) *Siblings and Descendants of Deceased Siblings*. If the Decedent is not survived by a spouse, descendant, or parent:
(1) the estate shall be divided into a number of equal family branches equal to the total number of:
(A) surviving siblings of the Decedent; and
(B) deceased siblings of the Decedent who left one or more surviving descendants;
(2) each surviving sibling identified in subparagraph (1)(A) shall receive one family-branch share; and
(3) the family-branch share allocated to each deceased sibling identified in subparagraph (1)(B) shall pass to that sibling's surviving descendants by right of representation, or per stirpes, under section 613.13-5.
(4) All siblings of the Decedent shall be treated equally under this subsection,

663 regardless of whether they share one or both parents with the Decedent.
664 (f) *Grandparents.* If the Decedent is not survived by a spouse, descendants, parents,
665 siblings, or descendants of siblings, the entire estate shall pass equally to the Decedent's
666 surviving grandparents.
667 (g) *Descendants of Grandparents.* If the Decedent is not survived by a spouse,
668 descendant, parent, sibling, descendant of a sibling, or grandparent, the estate shall be
669 divided into one equal share for each grandparent who left one or more surviving
670 descendants. Each share shall pass by right of representation, or per stirpes, to that
671 grandparent's surviving descendants under section 613.13-5.
672 (h) *No Eligible Heir*. If no person is entitled to inherit under subsections (a) through (g),
673 the estate shall escheat to the Nation under section 613.6-3.
674 (i) *Intestate Succession Table.* Figure 1 illustrates the order of intestate succession
675 established by this section. The provisions of this section control if an inconsistency
676 exists between Figure 1 and the text of this section.
677
678 **Figure 1. Order of Intestate Succession**

If the Decedent is survived by:	The estate passes as follows:	Applicable provision
A surviving spouse and no descendants	The surviving spouse receives the entire estate, including all real property and all other estate property.	613.13-4(a)
A surviving spouse and one or more descendants	The surviving spouse receives all real property and one-half (1/2) of the non-real property. The remaining one-half (1/2) of the non-real property passes to the Decedent's descendants by right of representation, or per stirpes, under section 613.13-5.	613.13-4(b)
One or more descendants and no surviving spouse	The entire estate passes to the Decedent's descendants by right of representation, or per stirpes, under section 613.13-5.	613.13-4(c)
One or more surviving parents and no surviving spouse or descendants	The entire estate passes equally to the Decedent's surviving parent or parents.	613.13-4(d)
One or more surviving siblings, or descendants of a deceased sibling, and no surviving spouse, descendants, or parents	The entire estate passes by right of representation, or per stirpes, to the Decedent's surviving siblings and the descendants of deceased siblings. Each surviving sibling and each deceased sibling who left one or more surviving descendants represents one family branch.	613.13-4(e)

One or more surviving grandparents and no surviving spouse, descendants, parents, siblings, or descendants of siblings	The entire estate passes equally to the Decedent's surviving grandparents.	613.13-4(f)
One or more descendants of the Decedent's grandparents and no person entitled to inherit under an earlier category	The entire estate passes by right of representation, or per stirpes, to the descendants of the Decedent's grandparents under sections 613.13-4(g) and 613.13-5.	613.13-4(g)
No person entitled to inherit under 613.13-4(a) through (g)	The estate escheats to the Nation.	613.6-3 and 613.13-4(h)

613.13-5. *Distribution by Right of Representation; Per Stirpes.*

(a) When property passes by right of representation, or per stirpes, to the descendants of a person, the property shall be divided into a number of equal shares equal to the total number of:

(1) surviving children of that person; and

(2) deceased children of that person who left one or more surviving descendants.

(b) One share shall be distributed to each surviving child identified in subsection (a)(1).

(c) The share allocated to each deceased child identified in subsection (a)(2) shall be distributed to that child's surviving descendants by applying this section as if the deceased child were the person whose descendants are entitled to receive the share.

(d) The process established by subsection (c) shall be repeated at each succeeding generation until the entire share has been distributed.

(e) A deceased child who left no surviving descendant shall not be allocated a share.

(f) A person treated as having predeceased another person under this law shall be treated as deceased for purposes of this section.

(g) A descendant of a living person who receives a share under this section shall not receive a separate share.

(h) A person related through more than one line of descent to the person whose descendants are entitled to receive property under this section is entitled to only one share, based on the line of descent that produces the largest share.

613.13-6. *Debts to a Decedent*. When an heir owes money to the Decedent, the debt may be deducted from that heir's inheritance. The debt may not be deducted from the inheritance of another heir. If the heir owing the debt dies before the Decedent, the debt may not be deducted from the inheritance of that heir's descendants who take the deceased heir's share by right of representation, or per stirpes.

613.13-7. *Partition and Sale of Property*. If multiple heirs or devisees hold undivided interests in property, the Court may order partition or sale when necessary to effectuate distribution and when partition in kind would materially prejudice the owners. Distribution shall be made

according to the Court's order.

613.13-8. *Family Settlement Agreements*. Family settlement agreements are favored by the Nation and shall be liberally construed to promote peaceful resolution of estate matters. An agreement may arise at any time during a probate proceeding and may be facilitated through the Peacemaking and Mediation Division established under section 801.6 of the Judiciary Law.

(a) Interested persons may enter into a written agreement resolving any matter concerning:

(1) heirship;
(2) distribution;
(3) valuation of property;
(4) administration of the estate; or
(5) settlement of claims.

(b) The Court shall approve the agreement unless it finds:

(1) fraud;
(2) duress;
(3) violation of federal law;
(4) violation of this law; or
(5) substantial prejudice to a minor, incapacitated person, or absent heir.

(c) Upon approval, the agreement shall be binding upon all signatories and may be incorporated into the final order of distribution.

(d) At any time during probate proceedings, interested persons may voluntarily participate in peacemaking or mediation through the Peacemaking and Mediation Division established under section 801.6 of the Judiciary Law for the purpose of resolving probate disputes or negotiating a family settlement agreement. Any agreement resulting from peacemaking or mediation shall be reduced to writing and submitted to the Court for approval under this section.

613.14. Wills

613.14-1. *Applicability*. All matters relating to the execution, admission, validity, interpretation, and effect of wills shall be determined in accordance with this law.

613.14-2. *Determination by Court*. The Court shall determine the validity and effect of a will as part of the probate proceeding. A will may be admitted at the Initial Probate Hearing or at a later hearing if additional evidence or proceedings are required.

613.14-3. *Objections and Contested Matters*. If an interested person objects to the admission, validity, interpretation, or effect of a will, the Court shall provide notice and an opportunity to be heard and shall conduct any additional proceedings necessary to resolve the objection.

613.14-4. *Who May Make a Will*. Any person eighteen (18) years of age or older who is of sound mind may make a will.

613.14-5. *Execution*. Except as provided in section 613.14-6 (Holographic Will), a valid will shall:

(a) be in writing;
(b) be signed by the testator or by another person acting in the testator's presence and at the testator's direction; and
(c) be signed by at least two (2) witnesses who witnessed either:

(1) the signing of the will;
(2) the testator's acknowledgment of the signature; or

(3) the testator's acknowledgment that the document is their will.

613.14-6. *Holographic Will*. A will is valid as a holographic will, whether or not witnessed, if:

(a) the will does not satisfy the execution requirements of section 613.14-5; and

(b) the signature and material provisions of the will are in the testator's handwriting.

613.14-7. *Self-Proved Will*.

(a) An attested will may be made self-proved:

(1) at the time of execution; or

(2) at any later date.

(b) A will is self-proved when:

(1) the testator acknowledges the will; and

(2) the witnesses execute affidavits before a notary public or other authorized official.

(c) The acknowledgment and affidavits shall be evidenced by a certificate under official seal attached to or annexed to the will.

(d) The existence of a self-proving affidavit does not prevent an interested person from contesting the validity of the will on grounds such as fraud, duress, undue influence, or lack of testamentary capacity.

(e) A certificate substantially in the following form satisfies this section:

THE STATE OF_____

COUNTY OF_____

We, _____, _____.

and _____, the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as their last will and that they had signed willingly or directed another to sign for them, and that they executed it as their free and voluntary act for the purposes therein expressed; and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of their knowledge the testator was at the time 18 or more years of age, of sound mind and under no constraint or undue influence.

_____

Testator

_____

Witness

_____

Witness

Subscribed, sworn to and acknowledged before me by

_____, the testator, and subscribed and sworn to before me by _____ and

_____, witnesses, this

_____ day of _____, 20____.

_____

(Signed)

_____

(Official capacity of officer)

613.14-8. *Who May Witness*. Any person eighteen (18) years of age or older who is generally

competent to be a witness may witness a will. A will or any provision thereof is not invalid because the will is signed by an interested witness.

613.14-9. *Choice of Law Governing Execution*. A written will is valid if it is executed in compliance with this law or with the law in effect at the time of execution in any of the following jurisdictions:

(a) the place where the will is executed; or

(b) the place where, at the time of execution or at the time of the testator's death, the testator is domiciled, resides, has a place of abode, or is a national.

613.14-10. *Revocation by Writing or by Act*. A will or any part thereof is revoked:

(a) by a subsequent will which revokes the prior will in whole or in part expressly or by inconsistency; or

(b) by being burned, torn, canceled, obliterated, or destroyed, with the intent and for the purpose of revoking it by the testator or by another person in their presence and by the testator's direction.

613.14-11. *Revocation by Divorce*.

(a) If, after executing a will, the testator is divorced or their marriage annulled, the divorce or annulment revokes:

(1) any disposition or appointment of property made by the will to the former spouse;

(2) any provision conferring a general or special power of appointment on the former spouse;

(3) any nomination of the former spouse as:

(A) Personal Representative;

(B) trustee;

(C) conservator; or

(D) guardian.

(b) This section does not apply if the will expressly provides otherwise.

(c) Property prevented from passing to a former spouse under this section passes as if the former spouse predeceased the Decedent.

(d) A power, authority, nomination, or office conferred upon the former spouse shall be interpreted as if the former spouse predeceased the Decedent.

(e) If provisions are revoked solely by operation of this section, they are revived by the testator's remarriage to the former spouse.

(f) A decree of legal separation that does not terminate the marriage is not a divorce for purposes of this section.

(g) No change of circumstances other than those described in this section revokes a will.

613.14-12. *Revival of a Revoked Will*.

(a) A prior will is not automatically restored merely because a later will is revoked.

(b) A revoked will becomes effective again only if the testator intended that result.

(c) The testator's intent may be established by:

(1) the circumstances surrounding the revocation of the later will;

(2) statements made by the testator; or

(3) the terms of a subsequent will.

(d) A prior will is revived only to the extent intended by the testator.

613.14-13. *Incorporation by Reference*. Any writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

613.14-14. *Events of Independent Significance*. A will may dispose of property by reference to acts and events which have significance apart from their effect upon the dispositions made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of a will of another person is such an event.

613.14-15. *Requirement that Devisee Survive Testator by One Hundred Twenty (120) Hours*. A devisee who does not survive the testator by one hundred twenty (120) hours is treated as if they predeceased the testator, unless the will of the Decedent contains some language dealing explicitly with simultaneous deaths or deaths in a common disaster, or requiring that the devisee survive the testator or survive the testator for a stated period in order to take under the will.

613.14-16. *Simultaneous Death*. The following rules apply to property not governed by the one-hundred-twenty-hour survival requirement in section 613.14-15 when there is insufficient evidence to establish the order of death.

(a) *General Rule*. Where the title to property depends upon priority of death and there is insufficient evidence that persons died other than simultaneously, each person's property shall be distributed as though that person survived the other.

(b) *Successive Beneficiaries*. Where two or more beneficiaries are designated to take successively by reason of survivorship and there is insufficient evidence establishing the order of death, the property shall be divided into equal shares corresponding to the number of successive beneficiaries and distributed accordingly.

(c) *Joint Tenants*. Where there is insufficient evidence that joint tenants or tenants by the entirety died other than simultaneously:

(1) Property held by two joint tenants shall be distributed:

(A) one-half as if the first tenant survived; and

(B) one-half as if the second had survived.

(2) Where more than two joint tenants are involved, property shall be distributed proportionately.

(d) *Life Insurance*. Where the insured and the beneficiary die and there is insufficient evidence establishing the order of death, the proceeds shall be distributed as if the insured survived the beneficiary.

(e) *Exception*. This section does not apply where a will, trust, deed or contract, or other governing instrument provides otherwise.

613.14-17. *Rules of Construction and Intent*. The intention of a testator as expressed in their will controls the legal effect of their dispositions. The rules of construction expressed in the succeeding sections of this law apply unless a contrary intention is indicated by the will.

613.14-18. *After-Acquired Property*. A will is construed to pass all property which the testator owns at their death including property acquired after the execution of the will.

613.14-19. *Anti-Lapse; Deceased Devisee; Class Gifts*.

(a) This section applies when a devisee is:

(1) a grandparent of the testator; or

(2) a lineal descendant of a grandparent of the testator.

(b) The devise passes to the devisee's issue who survive the testator by one hundred twenty (120) hours if the devisee:

(1) is deceased when the will is executed;

(2) fails to survive the testator; or

(3) is treated as having predeceased the testator.

(c) The devisee's surviving issue shall take the devise by right of representation, or per stirpes, under section 613.13-5.

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(d) A person who would have been a devisee under a class gift if the person had survived the testator shall be treated as a devisee for purposes of this section.

613.14-20. *Failure of Testamentary Provision*.

(a) Except as provided in section 613.14-19, if a devise other than a residuary devise fails for any reason, it becomes a part of the residue.

(b) Except as provided in section 613.14-19, if the residue is devised to two or more persons and the share of one of the residuary devisees fails for any reason, their share passes to the other residuary devisee, or to other residuary devisees in proportion to their interests in the residue.

613.14-21. *Exercise of Power of Appointment*. A general residuary clause in a will, or a will making general disposition of all of the testator's property, does not exercise a power of appointment held by the testator unless specific reference is made to the power or there is some other indication of intention to include the property subject to the power.

613.14-22. *Nonexoneration*. A specific devise passes subject to any security interest existing at the date of death, without right of exoneration, regardless of a general directive in the will to pay debts.

613.14-23. *Ademption by Extinction/Property No Longer Owned by Decedent*.

(a) A specific devise fails if the Decedent does not own the specifically devised property at the time of death.

(b) Unless the will provides otherwise, the devisee is not entitled to:

(1) the value of the property;

(2) substitute property; or

(3) compensation from the estate.

(c) This section applies when the property was sold, gifted, transferred, destroyed, lost, or otherwise disposed of before the Decedent's death.

613.14-24. *Ademption by Satisfaction*.

(a) A lifetime gift to a devisee shall be treated as satisfaction of a devise only if:

(1) the will provides that the gift is to be deducted;

(2) the testator declares in a contemporaneous writing that the gift is:

(A) in satisfaction of the devise; or

(B) deducted from the devise; or

(3) the devisee acknowledges in writing that the gift:

(A) is in satisfaction of the devise; or

(B) must be deducted from the devise.

(b) For partial satisfaction purposes, the value of the gift shall be determined as of the earlier of:

(1) the date the devisee received possession or enjoyment of the property; or

(2) the date of the testator's death.

613.14-25. *Harmless Error*. Notwithstanding the execution requirements for wills set forth in this law, a document or writing not executed in compliance with this law shall be treated as a valid will if the proponent establishes by clear and convincing evidence that the Decedent intended the document or writing to constitute:

(a) the Decedent's will;

(b) a partial or complete revocation of a will; or

(c) an addition to or alteration of a will.

613.15. Probate of Wills

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613.15-1. *Applicability*. This section governs the admission, probate, interpretation, and administration of wills through the probate procedures established by this law.

613.15-2. *Admission of Will to Probate*.

(a) A will may be admitted to probate upon petition of an interested person.

(b) The Court shall admit a will to probate if it determines that the will complies with the requirements of this law or is otherwise valid under applicable law.

(c) A self-proved will may be admitted without testimony from the attesting witnesses unless its authenticity is challenged.

(d) A will that is lost, destroyed, or otherwise unavailable may be admitted to probate upon proof of its contents and validity by clear and convincing evidence.

(1) In determining whether the burden of proof has been met, the Court shall require evidence independent of the testimony of a person seeking to benefit from the will. Such evidence may include:

(A) a copy of the will;

(B) attorney files, notes, correspondence, or records relating to preparation or execution of the will;

(C) electronic records, emails, or other writings created by the Decedent;

(D) affidavits or testimony of the drafting attorney, attesting witnesses, or other disinterested persons with personal knowledge; or

(E) other reliable documentary or physical evidence corroborating the existence, contents, and validity of the will.

(2) A lost or destroyed will may not be admitted to probate solely upon oral testimony. The Court shall require corroborating documentary, physical, or other reliable evidence establishing the existence and contents of the will.

613.15-3. *Determination of Validity*.

(a) The Court shall determine the validity of a will upon review of the will, petition, supporting documents, and evidence presented in the probate proceeding.

(b) If no objection is raised and the evidence establishes validity, the Court may admit the will at the Initial Probate Hearing.

(c) If the validity of the will is contested or the available evidence is insufficient, the Court shall conduct any additional proceedings necessary to determine:

(1) whether the document constitutes a valid will;

(2) whether the will was revoked;

(3) whether the will was executed in compliance with this law;

(4) whether the will was procured by fraud, duress, undue influence, or lack of testamentary capacity; and

(5) any other issue affecting the validity or enforceability of the will.

(d) In a proceeding involving the validity of a will:

(1) the proponent bears the burden of establishing due execution and entitlement to probate by a preponderance of the evidence, except when this law requires clear and convincing evidence; and

(2) the contestant bears the burden of establishing revocation, fraud, duress, undue influence, lack of testamentary capacity, or another ground challenging validity, unless otherwise provided by law.

613.15-4. *Construction and Interpretation of Wills*.

(a) The intent of the testator as expressed in the will controls to the fullest extent permitted by law.

(b) The Court may interpret and construe the provisions of a will where necessary to resolve an ambiguity, effectuate the testator's intent, or facilitate administration of the estate.

(c) Extrinsic evidence may be considered to resolve ambiguities and determine the testator's intent.

(d) The Court may construe or interpret a will upon petition of the Personal Representative or any interested person whose rights may be affected by the interpretation of the will.

(e) The Personal Representative may petition the Court for instructions concerning the administration of the estate, including the distribution of property, the implementation of the terms of a will, or any other matter affecting the Personal Representative's duties. The Court may issue appropriate orders necessary to effectuate the testator's intent and facilitate administration of the estate.

613.15-5. *Will Contests*.

(a) Any interested person may contest a will or any provision thereof.

(b) A will contest shall be determined by the Court after notice and an opportunity to be heard.

(c) The contestant bears the burden of proving the grounds for contest by a preponderance of the evidence unless otherwise required by law.

(d) A will contest may not be commenced after entry of the final order closing the estate except through reopening under section 613.15-8 or relief for fraud under section 613.7.

613.15-6. *Partial Intestacy.* Where a valid will does not effectively dispose of all property of the Decedent, the undisposed property shall pass according to the intestate succession provisions of this law.

613.15-7. *Distribution; Order in which Assets Appropriated; Abatement.* Property devised by will shall be distributed by the Personal Representative in accordance with the will, this law, and orders of the Court.

(a) Except as otherwise provided in this section, shares abate in the following order:

(1) property not disposed of by the will;

(2) residuary devises;

(3) general devises; and

(4) specific devises.

(b) Within each class, abatement shall occur proportionately.

(c) A general devise charged against specific property or a specific fund is:

(1) a specific devise to the extent of the value of the property or fund; and

(2) a general devise to the extent of any deficiency.

(d) If the will expresses an order of abatement, or if the testamentary plan or purpose of a devise would otherwise be defeated, the Court shall adjust the order of abatement as necessary to effectuate the intent of the testator.

(e) If the subject of a preferred devise is sold, consumed, or used during administration, abatement shall be achieved by appropriate adjustments among beneficiaries.

613.15-8. *Property Discovered After Estate Closed*. If property of the Decedent or other matters affecting administration or distribution are discovered after an estate has been closed, the Court may reopen the estate as necessary to administer the property or resolve the matter in accordance with this law.

613.15-9. *Compensation of Personal Representatives and Attorneys*.

(a) Compensation of a Personal Representative or attorney shall be subject to Court

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approval.

(b) A Personal Representative may receive compensation of two percent (2%) of the value of estate property for which the Personal Representative is accountable, less mortgages and liens, plus net principal gains realized during administration, unless:

(1) the Decedent and Personal Representative agreed in writing to a different amount;

(2) the persons entitled to receive a majority of the estate and the Personal Representative agree in writing to a different amount; or

(3) the Court determines that a different amount is reasonable.

(c) The Court may approve additional compensation for unusual difficulty or extraordinary services.

(d) The Court may reduce or deny compensation if the Personal Representative breached a fiduciary duty, failed to perform a required duty, unnecessarily delayed administration, or otherwise acted contrary to the interests of the estate.

(e) An attorney employed to assist the Personal Representative or estate is entitled to reasonable compensation for necessary legal services, subject to Court approval.

(f) In determining reasonable attorney compensation, the Court may consider:

(1) the time and labor reasonably required;

(2) the complexity and novelty of the legal issues;

(3) the skill required to perform the services;

(4) the results obtained for the estate;

(5) the customary charge for comparable legal services;

(6) the size and nature of the estate;

(7) whether the services benefited or protected the estate; and

(8) any other relevant circumstance.

(g) An attorney may not charge attorney rates for services that are purely administrative and ordinarily performed by the Personal Representative.

(h) The Court may order repayment of compensation found to be excessive or unsupported.

613.16. Notice

613.16-1. *General Requirement*. Notice shall be provided in all probate proceedings under this law to ensure that interested persons are informed and have an opportunity to be heard. Notice shall be reasonably calculated, under the circumstances, to apprise interested persons of the pendency of the proceeding and afford them an opportunity to present objections. This section governs notice in all probate proceedings under this law unless a specific provision expressly modifies or supplements these requirements. In the event of a conflict, the specific provision shall control only to the extent of the inconsistency.

613.16-2. *Responsibility for Notice*.

(a) Unless otherwise provided by this law or ordered by the Trial Court, the petitioner or Personal Representative, as applicable, is responsible for providing notice of a hearing, petition, motion, objection, or other filing requiring notice under this law.

(b) A provision of this law assigning responsibility for notice to a particular person controls over the general requirement in subsection (a).

(c) The Court may direct the Court Clerk to issue or provide notice when necessary for case administration or when no petitioner or Personal Representative is reasonably available to provide notice.

613.16-3. *Persons Entitled to Notice*. Notice shall be provided to each interested person whose legally protected right or interest may be materially affected by the hearing, petition, motion, objection, or other matter for which notice is required.

613.16-4. *Specific Notice Requirements*. A provision identifying persons entitled to notice of a particular matter controls the notice required for that matter. The Court may require notice to an additional interested person when necessary to protect that person's rights or interests.

613.16-5. *Method of Notice*. Unless otherwise required by this law or ordered by the Court, notice may be provided by one or more of the following methods. The methods are not listed in an order of priority, and a person providing notice is not required to attempt one method before another:

(a) Mail. By certified, registered, or first-class mail to the person's last known address.

(b) Personal Service. By delivering a copy of the notice personally to the individual.

(c) Electronic Service. When the person has consented in writing to receive notice electronically.

(d) *Publication and Posting*. If the identity or address of an interested person is unknown and cannot be ascertained with reasonable diligence:

(1) by publication in the Kalihwisaks and, where appropriate, a newspaper of general circulation; and

(2) by posting in at least two (2) of the following designated places of prominence within the Reservation:

(A) Oneida Health Center;

(B) HWY 54 & EEE Oneida One Stops;

(C) Oneida Community Library; or

(D) Oneida Main Casino.

613.16-6. *Timing of Notice*.

(a) Unless otherwise provided by this law or ordered by the Trial Court for good cause, notice shall be provided at least fourteen (14) calendar days before the hearing or other event to which the notice relates.

(b) When notice by publication and posting is required under section 613.16-5(d):

(1) the date of first publication constitutes the date of publication;

(2) the notice shall be posted in the required places of prominence no later than the date of first publication; and

(3) both publication and posting shall occur at least fourteen (14) calendar days before the hearing or other event to which the notice relates.

613.16-7. *Content of Notice*. All notices shall include, at a minimum:

(a) the name of the Decedent;

(b) the case number, if assigned;

(c) the nature of the proceeding;

(d) the date, time, and location (or virtual access information) of the hearing, if applicable;

(e) information on how to access relevant filings or the probate file; and

(f) contact information for the Court or petitioner.

613.16-8. *Proof of Notice*.

(a) Proof of notice shall be filed with the Trial Court before or at the hearing or other event to which the notice relates.

(b) Proof of notice by mail, personal service, electronic service, or posting shall include a signed declaration or affidavit stating:

(1) the documents provided;
(2) the person served or notified;
(3) the address or electronic address used;
(4) the date and method of service; and
(5) any additional information required by Court rule or form.

(c) Proof of publication shall include:
(1) an affidavit or certification from the publisher; and
(2) a copy of the published notice.

(d) A mailing receipt, delivery confirmation, acknowledgment, return receipt, or comparable record may be attached as supporting evidence but does not replace the declaration or affidavit required by subsection (b).

613.16-9. *Waiver of Notice*. Any person entitled to notice may waive such notice in writing. A written waiver signed by the person or their attorney and filed with the Court shall be deemed sufficient.

613.16-10. *Court Authority and Substantial Compliance*. The Trial Court may, for good cause shown:

(a) modify the method or timing of notice;
(b) require additional notice to protect the interests of affected persons; or
(c) determine that notice substantially complies with this law if no material prejudice resulted.

613.17. Creditors and Claims

613.17-1. *Notice to Creditors*.

(a) The Personal Representative shall provide notice to creditors by publication at least once in a publication of general circulation or general distribution serving the Reservation.

(b) The Personal Representative may provide additional notice through an official Nation publication, website, posting location, or other communication platform reasonably calculated to notify potential creditors. The Court may require additional notice when appropriate under the circumstances.

(c) If no Personal Representative has been appointed, the Court may direct the Court Clerk to issue creditor notice. The Clerk's responsibility under this subsection is ministerial and does not include evaluating, allowing, disallowing, or paying a claim.

(d) Notice under this section constitutes statutory notice to creditors. To the extent consistent with this section, the notice provisions of section 613.16 govern the method and proof of notice.

(e) The notice shall state that creditors must file their claims with the Court or deliver them to the Personal Representative within ninety (90) days after the first publication of notice and that untimely claims are barred unless permitted under section 613.17-9(b).

(f) The Personal Representative shall provide actual notice to any known creditor whose address is reasonably ascertainable.

(g) Actual notice to a known creditor shall be provided at least thirty (30) days before expiration of the claim period. A known creditor receiving later notice may present a claim within thirty (30) days after actual notice unless the estate has been finally closed.

613.17-2. *Presentation of Claims*.

(a) A creditor seeking payment from an estate shall present a written claim within the period established by section 613.17-9 by:

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(1) filing the claim with the Court; or
(2) delivering the claim to the Personal Representative, who shall promptly file a copy with the Court.

(b) If no Personal Representative has been appointed, the creditor shall file the claim with the Court.

(c) A claim shall state:
(1) the creditor's name and address;
(2) the amount claimed;
(3) the basis of the claim; and
(4) the supporting documentation reasonably necessary to establish the claim.

613.17-3. *Allowance or Disallowance of Claims.*

(a) The Personal Representative shall review each timely presented claim and make a preliminary determination allowing or disallowing the claim, in whole or in part.

(b) The Personal Representative shall provide written notice of the determination to:
(1) the creditor; and
(2) any interested person who has filed a written demand for notice concerning creditor claims.

(c) A preliminary allowance authorizes payment of the claim in accordance with section 613.17-7 unless an objection is timely filed or the Court orders otherwise.

(d) A disallowed claim shall not be paid unless:
(1) the Personal Representative later allows the claim;
(2) the parties resolve the claim through a written settlement; or
(3) the Court allows the claim after review.

(e) An allowance or disallowance by the Personal Representative is subject to objection and review by the Court under sections 613.17-4 and 613.17-5.

613.17-4. *Objections to Claims*.

(a) A creditor or interested person whose pecuniary interest may be materially affected may object to the Personal Representative's allowance or disallowance of a claim.

(b) An objection shall:
(1) be filed within thirty (30) days after notice of the Personal Representative's allowance or disallowance of the claim;
(2) identify the claim and the determination being challenged; and
(3) state the factual and legal grounds for the objection.

(c) Filing an objection stays payment of the disputed portion of the claim unless the Court orders otherwise.

(d) After notice and an opportunity to be heard, the Court shall determine the validity, amount, and priority of the disputed claim.

613.17-5. *Court Determination of Claims*.

(a) Upon an objection filed under section 613.17-4, the Court shall determine the validity, amount, classification, and priority of the disputed claim.

(b) The Court may consider affidavits, documentary evidence, testimony, stipulations, and other admissible evidence.

(c) The creditor bears the burden of establishing the validity and amount of the claim by a preponderance of the evidence.

(d) A person objecting to an otherwise established claim bears the burden of proving an affirmative defense, payment, waiver, discharge, or other basis for avoiding the claim.

(e) The Court may consolidate the claim proceeding with another probate matter when

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appropriate.

613.17-6. *Priority of Claims*.

(a) A valid secured claim shall be satisfied from the property securing the claim or from the proceeds of that property, subject to the terms of the security interest and applicable law.

(b) If the value of the collateral is insufficient to satisfy the secured claim, the unpaid balance shall be treated as an unsecured claim to the extent permitted by applicable law.

(c) Estate property not subject to a valid security interest shall be used to pay allowed claims and administration expenses in the following order:

(1) costs and expenses of administration, including Court costs, reasonable attorney fees, and Personal Representative compensation;

(2) funeral and burial expenses;

(3) family allowances and exempt-property rights under section 613.18, with priority between those rights determined under section 613.18-6(f);

(4) debts and taxes entitled to priority under applicable federal law; and

(5) all other allowed unsecured claims.

613.17-7. *Payment of Claims*.

(a) Allowed claims shall be paid by the Personal Representative in accordance with the priority provisions of this section and any order of the Court.

(b) Payment of claims shall occur before final distribution of the estate unless otherwise ordered by the Court.

(c) Allowed claims may be paid during administration of the estate without further Court approval unless an objection is pending or the Court orders otherwise.

613.17-8. *Insufficient Assets*. If the assets of the estate are insufficient to satisfy all allowed claims, claims within each class of priority shall be paid proportionately.

613.17-9. *Effect of Untimely Claims*.

(a) A claim not presented within ninety (90) days after first publication of creditor notice is barred unless the Court permits the late claim under subsection (b).

(b) Before entry of the final order closing the estate, the Court may permit a late-filed claim upon a showing of good cause and a finding that allowance of the claim will not substantially prejudice estate administration or the rights of interested persons.

(c) A late claim may not be allowed after entry of the final order closing the estate except as otherwise provided for fraud under section 613.7.

613.18. Family Rights

613.18-1. *Applicability of Family Rights*. Except as otherwise expressly provided in this section, the rights and allowances established by this section apply whether the Decedent died testate or intestate.

613.18-2. *Waiver of Family Rights.*

(a) A surviving spouse may waive:

(1) homestead protection;

(2) exempt-property rights; and

(3) family-allowance rights.

(b) A waiver may be made before or after marriage.

(c) A waiver is enforceable only if it:

(1) is in writing;

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(2) is signed by the person waiving the right; and
(3) was executed after fair disclosure.

(d) Unless the agreement provides otherwise, a written waiver of "all rights" in the estate of a present or prospective spouse constitutes a waiver of the rights identified in subsection (a).

613.18-3. *Omitted Spouse*.

(a) If a testator fails to provide by will for a surviving spouse whom the testator married after execution of the will, an omitted spouse shall receive the share they would have received had the Decedent died intestate unless:
(1) the omission appears intentional from the will; or
(2) the testator provided for the spouse outside the will and intended that transfer to replace a testamentary gift.

(b) Intent under subsection (a)(2) may be established by:
(1) statements of the testator;
(2) the amount of the transfer; or
(3) other relevant evidence.

613.18-4. *Pretermitted Children*.

(a) A child omitted from a will is entitled to receive the share of the estate the child would have received if the testator had died intestate if the child:
(1) was born after execution of the will; or
(2) was adopted after execution of the will.

(b) Subsection (a) does not apply if:
(1) the omission appears intentional from the will;
(2) when the will was executed, the testator had one or more children and devised substantially all of the estate to the other parent of the omitted child; or
(3) the testator provided for the child outside the will and intended that transfer to replace a gift under the will.

(c) Intent under subsection (b)(3) may be established by:
(1) statements of the testator;
(2) the amount of the transfer; or
(3) other relevant evidence.

(d) A child living when the will was executed is entitled to receive the share the child would have received if the testator had died intestate if:
(1) the child was omitted from the will; and
(2) the omission occurred solely because the testator believed the child to be deceased.

(e) Devises shall abate as necessary to satisfy a share awarded under this section.

613.18-5. *Homestead Protection.*

(a) A Personal Representative shall take reasonable steps to preserve a residence in which the Decedent held an interest and which, at the time of death, was occupied by:
(1) the surviving spouse;
(2) a minor child of the Decedent; or
(3) a dependent child of the Decedent.

(b) To the extent estate funds are reasonably available, the Personal Representative shall pay directly to the creditor or service provider the amounts necessary to keep current:
(1) a mortgage or other debt secured by the residence;
(2) rent or lease payments necessary to preserve occupancy;

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(3) property taxes;
(4) property insurance; and
(5) essential utility charges necessary to preserve the residence.

(c) Payments under this section may continue until the earliest of:
(1) final distribution of the residence or the Decedent's interest in the residence;
(2) sale or other lawful disposition of the residence;
(3) termination of the estate's ownership, leasehold, possessory, or contractual interest;
(4) one (1) year after the Decedent's death; or
(5) further order of the Court.

(d) Payments under this section shall be made directly by the Personal Representative and shall not be divided among or distributed to occupants of the residence unless the Court orders otherwise.

(e) The Court may modify or terminate the obligation upon finding that:
(1) estate funds are insufficient;
(2) continued payment would materially prejudice estate administration or persons entitled to the estate;
(3) the residence is no longer occupied by a person identified in subsection (a);
(4) the expense is unreasonable; or
(5) modification or termination is otherwise necessary to protect the estate.

(f) Payments under this section preserve the residence during administration and do not determine title, inheritance rights, or final distribution.

613.18-6. *Exempt Property*.

(a) The surviving spouse is entitled to exempt property having a value not exceeding twenty thousand dollars ($20,000.00) in:
(1) household furniture;
(2) automobiles;
(3) furnishings;
(4) appliances; and
(5) personal effects.

(b) The value of the property shall be determined net of any security interests.

(c) If there is no surviving spouse, the Decedent's children are jointly entitled to the same exemption.

(d) If the net value of qualifying exempt property is less than twenty thousand dollars ($20,000.00), the spouse or children may receive other estate assets sufficient to satisfy the deficiency.

(e) Rights to exempt property and assets used to satisfy a deficiency under subsection (d) have the priority established by section 613.17-6.

(f) The right to assets used to satisfy a deficiency abates as necessary to permit prior payment of the family allowance.

(g) Rights under this section are in addition to any benefit or share passing to the surviving spouse or children through:
(1) a will; or
(2) intestate succession.

(h) *Transfer by Affidavit*.
(1) A person receiving exempt property under this section shall execute a Transfer by Affidavit on a form approved by the Court.

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(2) The affidavit shall:
(A) identify the Decedent;
(B) describe the property transferred;
(C) identify the person receiving the property;
(D) state the date of transfer; and
(E) be signed by the recipient and the Personal Representative or other person authorized to make the transfer.
(3) The Transfer by Affidavit shall be filed with the Court.
(4) A transfer of exempt property is not effective under this section until the affidavit is filed.
(5) Filing the affidavit does not determine ownership of property that is disputed or relieve a recipient from liability for property received without lawful authority.

613.18-7. *Family Allowance*.
(a) The following persons are entitled to a family allowance:
(1) the surviving spouse;
(2) minor children whom the Decedent was obligated to support; and
(3) children actually being supported by the Decedent.
(b) The allowance:
(1) shall be reasonable;
(2) shall be paid from estate funds;
(3) may be paid in a lump sum or periodic installments; and
(4) shall not provide support for a period extending beyond one (1) year after the Decedent's death.
(c) The allowance:
(1) is exempt from unsecured claims against the estate; and
(2) has priority established by section 613.17-6.
(d) The allowance shall be paid:
(1) to the surviving spouse, if living, for the benefit of the surviving spouse and eligible children; or
(2) if there is no surviving spouse, to the eligible children or to the persons having their care and custody.
(e) If a minor or dependent child does not reside with the surviving spouse, the allowance may be allocated according to the recipients' circumstances and needs:
(1) partially to the child, guardian, or other person having care and custody of the child; and
(2) partially to the surviving spouse.
(f) The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children through:
(1) a will; or
(2) intestate succession.
(g) The death of a person entitled to a family allowance terminates entitlement to unpaid future installments.
(h) A family allowance authorized before closing may continue after entry of the final order if:
(1) the allowance does not provide support for a period extending beyond one (1) year after the Decedent's death; and

(2) the final order identifies the amount remaining payable and provides for the source and manner of payment.

(i) The final order may direct that reserved funds be transferred to a trustee, custodian, guardian, or other person designated by the Court. Unless the order expressly provides otherwise, the discharged Personal Representative has no further responsibility after transfer of the reserved funds.

613.18-8. *Administration of Exempt Property and Family Allowance*.

(a) Specifically devised property shall not be used to satisfy exempt-property rights if other estate assets are sufficient.

(b) Property used to satisfy exempt-property rights may be selected by:

(1) the surviving spouse;

(2) a guardian of a minor child; or

(3) an adult child entitled to exempt property under section 613.18-6.

(c) The Personal Representative may select the property if the persons identified in subsection (b):

(1) fail to act within a reasonable time; or

(2) do not exist.

(d) The Personal Representative may execute instruments or deeds of distribution necessary to establish ownership of exempt property distributed under this section.

(e) Upon a timely request by an eligible person, the Personal Representative shall determine and provide a reasonable family allowance and may:

(1) authorize a lump-sum family allowance not exceeding eighteen thousand dollars ($18,000.00);

(2) authorize periodic family-allowance payments not exceeding two thousand dollars ($2,000.00) per month, subject to the one-year limitation in section 613.18-7; and

(3) disburse estate funds in payment of the family allowance.

(f) An interested person aggrieved by a selection, determination, payment, proposed payment, or failure to act under this section may petition the Court for relief.

(g) Upon petition, the Court may:

(1) review the action of the Personal Representative;

(2) modify a selection, determination, or payment;

(3) approve a family allowance greater or less than the amount determined by the Personal Representative; or

(4) grant other appropriate relief.

(h) Relief under this section may be granted before entry of the final order closing the estate.

613.19. Inventory and Accounting

613.19-1. *Inventory of Estate Assets*.

(a) Within sixty (60) days after appointment, the Personal Representative shall prepare and file with the Court an inventory of the estate property subject to administration.

(b) The inventory shall describe the estate property with reasonable particularity and state the estimated fair market value of each asset as of the Decedent's date of death, to the extent reasonably ascertainable.

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(c) The Court may extend the time for filing the inventory for good cause shown.

(d) Upon request of the Court or an interested person, the Personal Representative shall provide additional information concerning estate assets.

(e) Upon request, the Personal Representative shall provide a copy of the inventory to an interested person unless the Court limits disclosure for good cause to protect confidential information, estate property, or another legally protected interest.

613.19-2. *Supplemental Inventory*. If estate property is discovered after the filing of the inventory, the Personal Representative shall file a supplemental inventory within a reasonable time after discovery of the property.

613.19-3. *Accounting*.

(a) Prior to final distribution of an estate, the Personal Representative shall submit to the Court a final accounting of the administration of the estate.

(b) The accounting shall include:

(1) the inventory value of estate assets;

(2) property received by the estate after the filing of the inventory;

(3) all receipts, income, and gains received by the estate;

(4) all disbursements, expenses, and distributions made by the estate;

(5) the balance of assets remaining for distribution;

(6) a description of the proposed final distribution;

(7) any compensation requested by the Personal Representative;

(8) attorney fees or other professional fees for which approval is sought;

(9) any unpaid family allowance and the funds reserved or other arrangements made for payment; and

(10) any other information required by the Court.

(c) The accounting shall demonstrate that all allowed claims, expenses of administration, taxes, and other obligations of the estate have been paid or provided for.

613.19-4. *Objections to Inventory or Accounting*.

(a) An interested person may file an objection to an inventory, supplemental inventory, or accounting if the person's rights or interests may be affected by the challenged matter.

(b) Objections shall be filed within the time established by the Court or prior to entry of an order approving final distribution.

(c) The objection shall identify the specific portion of the inventory or accounting being challenged and the basis for the objection.

(d) Upon objection, the Court shall determine the matter after notice and an opportunity to be heard.

613.19-5. *Approval of Accounting*.

(a) The Court shall review the accounting and determine whether the estate has been administered in accordance with this law.

(b) Upon approval of the accounting, the Court may authorize final distribution of the estate and payment of approved fees and expenses.

(c) Approval of the accounting constitutes approval of the acts fairly disclosed in the accounting, subject to relief for fraud, material misrepresentation, or material omission under section 613.7 or other applicable law.

613.20. Closing of Estate and Discharge

613.20-1. *Petition for Distribution and Closing*. Upon completion of the administration of the estate, the Personal Representative shall petition the Court for approval of final distribution and

closing of the estate. The petition shall include:

(a) a statement that all known debts, expenses, and claims against the estate have been paid or provided for;

(b) a summary of distributions proposed or completed;

(c) a statement that all required accountings have been filed; and

(d) a request for discharge of the Personal Representative.

613.20-2. *Inactive Estates*.

(a) If no filing or other action has occurred in an estate for six (6) consecutive months, the Court may issue a notice requiring the Personal Representative to:

(1) file a status report;

(2) complete an overdue inventory, accounting, notice, distribution, or other required act;

(3) show cause why the Personal Representative should not be suspended or removed; or

(4) appear at a status hearing.

(b) After notice and an opportunity to be heard, the Court may:

(1) establish deadlines for completion of estate administration;

(2) issue appropriate case-management or protective orders;

(3) suspend or remove the Personal Representative under section 613.12-5;

(4) appoint a successor Personal Representative under section 613.12-7; or

(5) take other action necessary to protect the estate and interested persons.

(c) If no filing or other action has occurred for twelve (12) consecutive months after notice issued under subsection (a), the Court may administratively close the case without final distribution or discharge.

(d) Administrative closure under this section:

(1) does not approve an inventory or accounting;

(2) does not adjudicate ownership or distribution of estate property;

(3) does not discharge the Personal Representative or relieve any person from liability;

(4) does not affect a valid lien, claim, or property interest; and

(5) does not prevent reopening upon motion of an interested person or the Court's own initiative.

(e) Before administrative closure, the Court shall provide notice to the Personal Representative and interested persons and may enter orders necessary to protect estate property or require surrender of Domiciliary Letters.

613.20-3. *Notice*. Notice of the petition for closing shall be provided in accordance with section 613.16 to all interested persons.

613.20-4. *Order of Distribution*.

(a) Upon review of the petition, final accounting, proof of notice, and any objections, the Court shall enter an order approving final distribution consistent with this law.

(b) The Court may decide the petition without an additional hearing if no objection has been filed and the record is sufficient to support the requested relief.

(c) The final order may direct the reservation or transfer of funds necessary to satisfy an unpaid family allowance authorized under section 613.18-7.

613.20-5. *Discharge of Personal Representative*. Upon approval of the final distribution and completion of all required acts, the Court shall discharge the Personal Representative from further duties and liabilities relating to the administration of the estate. The discharge does not

relieve the Personal Representative from liability for fraud, material misrepresentation, concealment, or acts or omissions not fairly disclosed in the probate proceeding.

613.20-6. *Effect of Closing*. The order closing the estate constitutes a final adjudication of the rights of heirs, devisees, beneficiaries, and creditors, subject to reopening under section 613.15-8, relief for fraud under section 613.7, or other relief authorized by applicable law.

613.21. Small Estate Procedure.

613.21-1. *Eligibility*. If the gross fair market value of property subject to administration under this law does not exceed fifty thousand dollars ($50,000.00) as of the Decedent's death, the estate may be administered under this section.

613.21-2. *Transfer by Affidavit*.

(a) A qualifying small estate may be distributed without commencement of a probate proceeding by a Transfer by Affidavit executed by:

(1) an heir;
(2) a devisee;
(3) a trustee of a trust created by the Decedent;
(4) a person nominated as Personal Representative in the will; or
(5) another person authorized by an existing Court order.

(b) By accepting estate property, the affiant assumes a fiduciary duty to:

(1) pay or provide for enforceable debts and expenses;
(2) distribute the remaining property to the persons legally entitled to receive it;
(3) maintain records of receipts and distributions; and
(4) return or reimburse property improperly received.

(c) Before distributing property, the affiant shall make reasonable provision for enforceable debts, administration expenses, funeral and burial expenses, family rights, and other obligations having priority under this law.

(d) The affidavit shall be filed with the Oneida Register of Deeds. An affidavit affecting fee land shall also be recorded with the appropriate county register of deeds.

(e) A small estate may not proceed under this section if:

(1) a dispute exists regarding the validity of a will, heirship, ownership, or distribution;
(2) a minor or incapacitated person's interest cannot be adequately protected;
(3) the estate is insolvent or creditor claims are disputed; or
(4) the Court determines that probate administration is necessary.

(f) An interested person may petition the Trial Court for relief from an improper or disputed transfer.

613.21-3. *Effect of Transfer*. A person or entity holding estate property may rely on a Transfer by Affidavit that appears complete and regular on its face. A transfer made in good faith reliance on the affidavit has the same effect as a transfer by a duly appointed Personal Representative.

613.22. Enforcement of Probate Orders

613.22-1. *Turnover and Protection of Estate Property.*

(a) A person possessing or controlling property reasonably believed to belong to an estate shall, upon written request of the Personal Representative, disclose the location and condition of the property and surrender the property unless:

(1) the person asserts a good-faith ownership or possessory claim; or
(2) the Court orders otherwise.

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(b) The Personal Representative or an interested person may petition the Court for an order requiring:

(1) disclosure of estate property;

(2) an accounting concerning the property;

(3) turnover or delivery of the property;

(4) preservation of the property;

(5) access to premises or records;

(6) restitution for loss, damage, or unauthorized use; or

(7) other relief necessary to protect the estate.

(c) After notice and an opportunity to be heard, the Court may determine possession or control of property and enter an order necessary to preserve or recover estate property.

(d) If the Court finds that a person knowingly failed to comply with an order concerning estate property, the Court may exercise its contempt authority under the Judiciary Law and may order:

(1) turnover of the property;

(2) restitution to the estate;

(3) payment of reasonable costs and attorney fees caused by the noncompliance;

(4) payment of additional reasonable Personal Representative compensation attributable to the noncompliance; and

(5) any other lawful remedial sanction.

(e) Upon a finding that voluntary compliance is unlikely or immediate action is necessary to prevent concealment, transfer, loss, or damage, the Court may issue any writ or order authorized by applicable law directing an appropriate law-enforcement officer to assist in securing or recovering specifically identified estate property.

(f) An order issued under subsection (e) shall describe the property with reasonable particularity and shall comply with all requirements applicable to entry, search, seizure, inventory, custody, and return of property.

(g) Nothing in this section authorizes a search, entry, or seizure inconsistent with applicable law.

End.

Emergency Adoption—BC-04-22-26-E
Emergency Extended—BC-10-26-14-D
Adopted-BC-XX-XX-XX-X

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Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov

Legislative Operating Committee
November 18, 2026

VENDOR LICENSING LAW

Submission Date: 6/19/24	**Public Meeting:** 8/13/26
LOC Sponsor: Jonas Hill	**Emergency Enacted:** N/A

Summary: *This item was added to the Active Files List on June 19, 2024, at the request of Ralinda Ninham-Lamberies, the Chief Financial Officer. Amendments are being sought to update the law, specifically sections 506.1-1, 506.6, and 506.8.*

6/19/24 LOC: Motion by Kirby Metoxen to add the Vendor Licensing Law Amendments to the Active Files List with Jonas Hill as the sponsor; seconded by Jennifer Webster. Motion carried unanimously.

10/23/24: *Work Meeting.* Present: Tonya Webster, Ralinda Ninham-Lamberies, Sarah White, Jason Doxtator, Beth Schirck Smith, Lisa Moore, Lind Dallas, Jameson Wilson, Marlon Skenandore, Jennifer Webster, Maureen Perkins, Kristal Hill, Clorissa Leeman, Carolyn Salutz. The purpose of this work meeting was to begin reviewing the law – we started the meeting by reading the law line-by-line. Suggestions were discussed on just about every section of the law; suggestions included: updating purpose to remove 'revenue', currently, not all vendors are licensed, there was a lot of discussion on the license fee (get rid of it, increase it, tier it), revocation for noncompliance with insurance(perhaps they should be given an opportunity to cure), timeline for processing licenses should be increased from 10 to 20 days, should get rid of 'public inspection', should there be rulemaking?, how often should vendor renew license?

3/3/25: *Work Meeting*. Present: Tonya Webster, Ralinda Ninham-Lamberies, Sarah White, Beth Schirck Smith, Linda Dallas, Kong Meng Moua, Olivia Danforth, Jameson Wilson, Jonas Hill, Kirby Metoxen, Kristal Hill. The purpose of this meeting was to review the newest suggested amendments. We did a read through and then focused on specific questions. A lot of the discussion was about insurance coverage, how it's monitored, who's responsible for it, what happens when a vendor loses insurance, does loss of insurance mean the vendor license can be revoked.

7/14/25: *Work Meeting*. Present: Tonya Webster, Ralinda Ninham-Lamberies, Sarah White, Beth Schirck Smith, Jameson Wilson, Jonas Hill, Marlon Skenandore, Jennifer Webster, Kirby Metoxen, Carolyn Salutz, Fawn Cottrell, Fawn Billie, Kristal Hill. The purpose of this work meeting was to review the newest amendments.

7/22/25: *Work Meeting.* Present: Shane Hill, Jason Doxtator, Carolyn Salutz. The purpose of this work meeting was for DTS to share suggested definitions and ensure the law accurately reflects what DTS does do, and needs to do, for vendor licensing.

8/19/25: *Work Meeting*. Present: Tonya Webster, Ralinda Ninham-Lamberies, Sarah White, Beth Schirck Smith, Olivia Danforth, Jason Doxtator, Shane Hill, Jameson Wilson, Jonas Hill, Marlon Skenandore, Kristal Hill, Fawn Billie, Fawn Cottrell, Rhiannon Metoxen, Carolyn Salutz. The purpose of this work meeting was to review the newest amendments.

9/2/25: *Work Meeting*. Present: Olivia Danforth, Tonya Webster, Krystal John, Sarah White, Carolyn Salutz. The purpose of this work meeting was for Licensing and the law office to review how they want to handle probation/revocation/disbarment.

10/6/25: *Work Meeting*. Present: Tonya Webster, Olivia Danforth, Sarah White, Beth Schirck Smith, Ralinda Ninham-Lamberies, Jason Doxtator, Shane Hill, Jameson Wilson, Jonas Hill, Jennifer Webster, Fawn Cottrell, Kristal Hill. The purpose of this meeting was for the group to review the newest amendments. The group reviewed new definitions and the newest changes to the application, renewal, and maintenance sections, with the changes made since meeting with Licensing and the law office on 9/2.

1/22/26: *Work Meeting*. Present: Kirby Metoxen, Beth Schirck-Smith, Heidi Janowski, Jason Doxtator, Sarah White, Grace Elliott, Olivia Danforth, Stephanie Metoxen, Jameson Wilson, Fawn Cottrell, Fawn Billie, Ralinda Ninham-Lamberies. The purpose of this work meeting was for the group to review the newest amendments. The group discussed exemptions and deferments, rulemaking authority that could be given to the Licensing Department regarding exemptions and deferments, approval or denial of licenses, pardon and forgiveness. The group also discussed if we could amend Revocation to include one step up (to probation) if the vendor is complying with Licensing. The group also discussed pardon and forgiveness regarding a debarred vendor's ability to reapply for a vendor license and do business with the Nation as a vendor. The timeframe of ten years was discussed: it is just a suggestion. No decision was made.

3/16/16: *Work Meeting*. Present: Sarah White, Tonya Webster, Ralinda Ninham-Lamberies, Krystal John. The purpose of this work meeting was to review the newest amendments. The work group spent the most time discussing the section on deactivation, probation, revocation, debarment and how to better distinguish each.

3/30/26: *Work Meeting*. Present: Sarah White, Tonya Webster, Krystal John, Heidi Janowski, Isaiah Skenandore, Olivia Danforth, Beth Schirck-Smith, Fawn Billie. The purpose of this work meeting was to review licensing procedures; specifically, two sections of the amendments to make sure they're on track. Group spent the most time discussing how the Nation can communicate vendor statuses and probation/revocation. Perhaps a vendor should be permanently revoked, and we shouldn't have a separate category of debarment. The Nation probably wants some parameters in the law as to what will constitute reasons for permanent revocation.

4/14/26: *Work Meeting*. Present: Tonya Webster, Krystal John, Heidi Janowski, Olivia Danforth, Beth Schirck-Smith, Leyne Orosco, Fawn Cottrell, Carolyn Salutz. The purpose of this work meeting was to review three sections, the definitions, new application procedures, and deactivation, or revocation. The group decided on a new definition; all new vendors do complete a technology screening from DTS, and language needs to be edited regarding potential revocation. Krystal offered to help with new language. Before meeting with the LOC, Krystal will provide suggested language.

6/2/26: *Work Meeting*. Present: Tonya Webster, Krystal John, Heidi Janowski, Olivia Danforth, Beth Schirck-Smith, Leyne Orosco, Kristal Hill, Carolyn Salutz. The purpose of this work meeting was to review the newest draft, which included suggestions and comments from Krystal. The group is satisfied with the amendments. There are a few minor changes to make (formatting, definitions) otherwise draft is approved by the work group. After the last, minor changes are made, the amendments will be ready for LOC approval.

6/17/26 LOC: Motion by Jennifer Webster to approve the draft, legislative analysis, and public meeting packet, and direct a public meeting to be held on August 13, 2026, seconded by Jonas Hill; motion carried unanimously.

8/13/26: *Public Meeting.* Present: Jennifer Webster, Carolyn Salutz, Diane Wilson. Present on Microsoft Teams: Brooke Doxtator, Lauren Hartman, Jean Olson, Danielle White, Carrie Lindsey, Eric Bristol, Derrick King, Hudson Denny, Leyne Orosco, Lisa Duff, Terri Schiltz, Michelle Tipple, Dana Thyssen, Melissa Alvarado, Valerie Webster, Jamie Willis, Michelle Braaten, Susan Danforth, Amber VanKirk, Martin Prevost, Sarah White, Ashley Blaker, Gregory Matson, Jeremy King, Taryn Webster, Tonya Danforth, David Emerson, Heather Jordan, Carrie Blohowiak, Wenona Walter, Nicholas Reynolds, Sidney White, Artley Skenandore, Rita Reiter. Two (2) individuals provided oral comments.

8/20/26: *Public Comment Period Closed.* No individuals provided written comments.

11/04/26: *Work Session*. Present: Aliskwet Ellis, Lora Danforth, Kristal Hill, Clorissa Leeman, Grace Elliott, Susan House, Shoshana King, Yohnentote Danforth. The purpose of this work meeting was for the LOC to review the final draft of amendments that was approved last term. The work group did a line-by-line read through of the proposed amendments. The group wanted to clarify the Nation will not work with vendors who do not align or who violates the Nation's core values. The LOC also questioned why the time for application processing was increased from ten to twenty days. Before the LOC approves the proposed amendments from last term, minor changes will be made to reflect the Nation's core values and the drafting attorney will reach out to the Licensing Department for more information on why the application processing time was increased.

11/10/26: *Work Meeting*. Present: Aliskwet Ellis, Kristal Hill. Lora Danforth. Jonas Hill, Yohnehtote Danforth, Krystal John, Susan House, Shoshana King, Rhiannon Metoxen. The purpose of this work meeting was to review the amendments made since the last work meeting. The group reviewed and approved the changes and made and approved a few amendments during the meeting.

Next Steps:

- Accept the public meeting draft, public comments, and the public comment review memorandum for the proposed Vendor Licensing Law Amendments and defer to a work meeting for consideration.

Oneida Nation
Legislative Operating Committee
Legislative Reference Office
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov

TO: Legislative Operating Committee (LOC)
FROM: Carolyn Salutz, Staff Attorney, Legislative Reference Office
DATE: November 18, 2026
RE: Vendor Licensing Law Amendments: Public Comment Review

On August 13, 2026, a public meeting was held regarding the proposed amendments to the Vendor Licensing Law. Two (2) oral comments were made during the public meeting. The public comment period was then held open until August 20, 2026. No written comments were submitted during the public comment period. This memorandum is submitted as a review of the comments received during the public meeting. The public meeting draft and public meeting transcript received are attached to this memorandum for review.

Comment 1 – DTS Security Review requirements

506.5-2. *DTS Security Review*. All applicants for a vendor license shall complete DTS screening questions. If the vendor responded "yes" to any of the DTS screening questions, the vendor will be required to complete an additional technology assessment or CSRA or both. A license may not be issued until the technology assessment or CSRA or both are completed and approved by DTS.

(a) *Waiver*. Even if a vendor responded "yes" to any of the DTS screening questions, the vendor may be waived from completing an additional technology assessment or CSRA or both, if DTS, Risk Management, and the Chief Financial Officer waive an additional technology assessment or the CSRA or both.

Diane Wilson (oral): Hi, my name is Diane Wilson. I guess I had questions more than anything and so I don't expect to get an answer but I have a contractor that I work with who is an individual and I was wondering about this DTS security review and they work from home. It's like they'll be using their personal computer and I was hoping to kind of get a(n) understanding of what that DTS security review is about what requirements that a vendor might have to abide by. It doesn't really state when it's applicable, but I do see there's a waiver allowance. So hopefully it doesn't create too much of an additional responsibility onto the kind of small-time vendors that the Nation needs contracts with. So that was my comment.

Response
Commenter questions what the DTS Security Review requires since those requirements are not listed in the law and commenter wonders if she could get more clarification on that. It is likely not practical for the law to list every requirement of the DTS Security Review. What DTS determines necessary to conduct as part of a security review will likely differ between vendors and likely differ as technologies change and the needs of the Nation change. By referencing the DTS Security Review as a necessary component of the vendor licensing application process and something all vendors must complete, the Nation is better suited to managing its vendors and allowing the DTS Department to conduct security reviews as it determines necessary and in the Nation's best interests.

A good mind. A good heart. A strong fire.

The LRO recommends no revision of the law based on this comment because it is impractical to list all aspects of the DTS Security Review within the law. Instead, the LRO recommends that commenter work with DTS and the Licensing and Purchasing Departments.

LOC Consideration

Comment 2 – Emergency Exemptions and Complicated Process

506.4-3. *Exemptions*. The following are exempt from licensure.

(a) Services or goods provided by another federally recognized tribe, subject to all laws and rules of the Nation.

(b) Services or goods provided by another government, subject to all laws and rules of the Nation.

(c) Other vendors as identified by Licensing through standard operating procedures and published on the Nation's website.

Michelle Tipple (oral): Okay, so during emergencies and times, at times you may need to pivot and purchase supplies and services from an entity not established as a vendor. And I'm specifically referring to emergency response activities as identified within the (Oneida) Nation emergency response plan, such as a pandemic response. So, like during COVID, there were times that we needed to purchase supplies and equipment wherever we could find them because they were in demand for every community. So, I'm not sure if emergency exceptions should be included in this law. Perhaps exceptions to the law are better handled through department operating procedures since there is existing exception language in the emergency management law for the purposes of protecting the health, safety, and general welfare of the Nation's community members and employees. So at least in instances where there's an emergency declaration. But I just wanted to elevate this real-life situation that we face when responding to emergencies and then as it may reconnect to this law.

And then my second comment, just that the vendor license process is very robust and navigating it can be somewhat complicated. So just that encouragement of investing in improved technology around this process could really benefit the vendors as well as those that must access the vendor license processes for their day-to-day work.

Thank you.

Response

Commenter mentions there are times, emergencies, when the Nation needs to purchase supplies and equipment and has needed to act faster than is required by this law to establish a vendor with the Nation. Commenter also mentions perhaps this law should not include emergency exceptions and that emergency exceptions may already be handled through the Emergency Management Law or better handled through department standard operating procedures. Lastly, commenter mentions the vendor licensing process is very robust and complicated to navigate and encourages the Nation to make this process easier to navigate by improving technology processes and resources.

Commenter is correct that this exemption may already be handled by requirements established in the Emergency Management law. Specifically, the Emergency Management law allows, in the event of an emergency, the Emergency Management Director to obtain vital resources for the Nation. *[3 O.C. 302.4-3]*.

The proposed amendments to the Vendor Licensing law also allow the Licensing Department to identify through standard operating procedures other vendors who are exempt from licensure.

There are no recommended revisions to the law based on commenter two's comments. It appears the mechanisms for the Nation to manage emergencies are found in the Emergency Management law. Additionally, the proposed amendments to the Vendor Licensing law include an option for the Licensing Department to exempt vendors; and finally, emergencies may be best handled through department standard operating procedures, as the commenter noted.

The LRO agrees with commenter's remark that the vendor licensing process can be difficult to understand and navigate; and for that reason, has restructured the law, and is proposing these amendments, in an effort to clarify and simplify the requirements and the processes. The vendor licensing requirements and processes may be inherently robust and complicated, no matter how the LOC, DTS, Purchasing Department, Licensing Department, the Oneida Law Office, and the Finance Division have worked to simplify the law. The LRO recommends that the commenter and vendors work closely with the Nation to navigate the processes and requirements.

The LRO can also amend the Legislative Analysis to include a more detailed description of the Nation's vendor licensing process.

LOC Consideration

Oneida Nation
Oneida Business Committee
Legislative Operating Committee
PO Box 365 • Oneida, WI 54155-0365
Oneida-nsn.gov

LEGISLATIVE OPERATING COMMITTEE
PUBLIC MEETING
Vendor Licensing Law Amendments

Norbert Hill Center Business Committee Conference Room and Microsoft Teams
August 13, 2026
12:15 p.m.

Present: Jennifer Webster, Carolyn Salutz, Diane Wilson
Present on Microsoft Teams: Brooke Doxtator, Lauren Hartman, Jean Olson, Danielle White, Carrie Lindsey, Eric Bristol, Derrick King, Hudson Denny, Leyne Orosco, Lisa Duff, Terri Schiltz, Michelle Tipple, Dana Thyssen, Melissa Alvarado, Valerie Webster, Jamie Willis, Michelle Braaten, Susan Danforth, Amber VanKirk, Martin Prevost, Sarah White, Ashley Blaker, Gregory Matson, Jeremy King, Taryn Webster, Tonya Danforth, David Emerson, Heather Jordan, Carrie Blohowiak, Wenona Walter, Nicholas Reynolds, Sidney White, Artley Skenandore, Rita Reiter

Jenny: Good afternoon. The time is 12:15 and today's date is August 13, 2026. I will now call to order the public meeting for the following piece of proposed legislation. The vendor licensing law.

The LOC is hosting this public meeting to gather feedback from the community regarding these legislative proposals. The public meeting is not a question-and-answer period. The LOC will review and consider all comments received during the public comment period. The LOC will respond to all comments received in the memorandum, which will be submitted in the following materials of a future LOC meeting. All persons who wish to present oral testimony in person need to register on the sign-in sheet. Individuals who wish to present oral testimony on Microsoft Teams, please raise your hand and you'll be called on. If you leave an e-mail address on the sign-in sheet, we can ensure you receive a copy of the public comment review memorandum. Additionally, written comments may be submitted to the nation's secretary's office or to the legislative reference office in person by US mail, interoffice mail, e-mail, or fax as provided in the public meeting notice. These comments must be received by close of business on Thursday, August 20, 2026.

In attendance from LOC is myself, Councilwoman Jennifer Webster.

The LOC may impose a time limit for all speakers pursuant to section 109.8-3C of the Legislative Procedures Act. As the presiding LOC member, I'm imposing a time limit of 5 minutes per person per topic. This time limit shall be applied equally to all persons. We will now begin today's public meeting for the proposed amendments to the vendor licensing law.

The purpose of the vendor licensing law is to regulate and license vendors who provide goods or services for and do business with the nation and ensure the nation's safety, regulate compliance,

minimize risk, and protect the nation's assets. The vendor licensing law amendments will clarify it is the purpose of the law to regulate vendors who provide goods or services to the nation and ensure the nation's safety, regulate compliance, minimize risk, and protect the nation's assets. It is no longer the purpose of this law to provide revenue for the nation by collecting fees from vendors. Clarified, it is the policy of the nation to establish a fair system for implementation and enforcing the requirements for maintaining a vendor's license. Clarify in the definitions the following terms. business entity, certificate of insurance, CSRA, deactivate DTS, financial information, goods, great harm, licensing, notice, service, and technology assessments. Clarify that the record may request related, clarify that any record request related to vendor licensing is subject to applicable laws and rules of the nation. Clarify that in addition to services or goods provided by another federally recognized tribe or by another government, other vendors as identified by licensing through standard operating procedures and published on the nation's website may be exempt from licensure. Clarify the requirements to complete an application. Clarify the requirement for applicants to submit and complete screening questions and any follow-up or additional assessments. as determined by the nation's digital technology services department. Clarify that before a vendor performs any work, the vendor must demonstrate appropriate and adequate insurance coverage. Clarify the nation's risk management department is responsible for determining what constitutes appropriate and adequate insurance coverage for varying types of goods and services and making those requirements available on the nation's website. Clarify the annual and tri-annual requirements to maintain a vendor's license. Clarify what it means to have a vendor's license be deactivated or revoked.

Those who wish to speak, please raise your hand. Please state your name when making a comment. First up to speak is Diane Wilson and if you want to press the green button so we can record. I appreciate that.

Diane Wilson: Hi, my name is Diane Wilson. I guess I had questions more than anything and so I don't expect to get an answer, but I have a contractor that I work with who is an individual and I was wondering about this DTS security review and they work from home. It's like they'll be using their personal computer and I was hoping to kind of get a understanding of what that DTS security review is about what requirements that a vendor might have to abide by. It doesn't really state when it's applicable, but I do see there's a waiver allowance. So hopefully it doesn't create too much of an additional responsibility onto the kind of small-time vendors that the Nation needs contracts with. So that was my comment.

Jenny: Is there anybody online that would like to speak? Michelle Tipple, go ahead.

Michelle Tipple: Hello, this is Michelle Tipple. Just had a couple comments that I wanted to share in regard to the vendor license law. Can you hear me okay?

Jenny: We can, thank you.

Michelle Tipple: Okay, so during emergencies and times, at times you may need to pivot and purchase supplies and services from an entity not established as a vendor. And I'm specifically referring to emergency response activities as identified within the United Nation emergency response plan, such as a pandemic response. So, like during COVID, there were times that we

needed to purchase supplies and equipment wherever we could find them because they were in demand for every community. So, I'm not sure if emergency exceptions should be included in this law. Perhaps exceptions to the law are better handled through department operating procedures since there is existing exception language in the emergency management law for the purposes of protecting the health, safety, and general welfare of the Nation's community members and employees. So at least in instances where there's an emergency declaration. But I just wanted to elevate this real-life situation that we face when responding to emergencies and then as it may reconnect to this law. And then my second comment, just that the vendor license process is very robust and navigating it can be somewhat complicated. So just that encouragement of investing in improved technology around this process could really benefit the vendors as well as those that must access the vendor license processes for their day-to-day work. Thank you.

Jenny: Thank you, Michelle. Is there anybody else that would like to make comment? Is there anybody else that would like to make comments today? With not seeing any hand ups and no more speakers in the room, the public meeting for the proposed vendor licensing law amendments is now closed at 12:25 p.m. Again, written comments may be submitted until close of business on Thursday, August 20, 2026. Thank you for joining us.

-End of Transcript-

Title 5. Business - Chapter 506
VENDOR LICENSING
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they are permitted to sell to one

506.1. Purpose and Policy
506.2. Adoption, Amendment, Repeal
506.3. Definitions
506.4. Scope
506.5. Application Procedures
506.6. Maintaining a Vendor License
506.7. Deactivation or Revocation of a Vendor License
506.8. Appeal

506.1. Purpose and Policy.
506.1-1. *Purpose*. The purpose of this law is to:
(a) regulate and license all vendors who provide a servicegoods or services for, and do business with, the Oneida Nation,; and
(b) provide revenue for the Nation by collecting fees from vendors for a license to perform a service for or do business with the Nation.
(b) ensure the Nation's safety, regulate compliance, minimize risk, and protect the Nation's assets.
506.1-2. *Policy*. It is the policy of the Oneida Nation to establish a fair system to implementfor implementing, administering, and enforceenforcing the issuance of vendor's licensesrequirements to maintain a vendor license provided that all programs, enterprises, and collection of feestribal entities are encouraged to seek within their own employees those with expertise to meet the Nation's needs.

506.2. Adoption, Amendment, Repeal.
506.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-19-92-C and amended by resolutions BC-3-5-97-E, BC-02-25-15-C and BC-10-12-16-E.
506.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.
506.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.
506.2-4. 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.
506.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

506.3. Definitions
506.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.
(a) "Business day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Nation.
(b) "Business entity" means that which exists as a particular and discrete unit, which may include, but is not limited to;, any person, independent contractor, sole proprietorship, partnership, corporation, joint venture, franchise, governmental enterprise, or any other natural or artificial person or organization. The term "entity" is intended to be as broad and encompassing as possible to ensure this law covers all contracted goods or services within the jurisdiction of this lawthe Nation.

(c) "~~Department~~Certificate of Insurance" means a document issued by an insurance company that verifies the ~~Oneida~~existence of an insurance policy and summarizes key aspects and conditions of the policy.
(d) "CSRA" means the Cyber Security Risk Assessment done by the Nation's Digital Technology Services department to assess potential cyber threats and vulnerabilities. The goal of the CSRA is to identify and prioritize risks and to develop strategies to reduce the likelihood and impact of a cyberattack.
(e) "Deactivate" means to turn off the vendor in the Licensing ~~Department~~system for lack of current vendor information.
~~(d~~(f) "DTS" means the Nation's Digital Technology Services department.
(g) "Financial information" means any information related to the financial activities and performance of a business. For the purposes of this law, "financial information" may refer to income and tax reporting documents or direct deposit and banking information.
(h) "Goods" means quantifiable products, tangible or intangible, that must be provided pursuant to an Agreement with the Nation.
(i) "Great harm" means credible evidence exists that substantiates commission of any of the following actions: fraud, any violation of Federal or State antitrust statutes, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, obstruction of justice, or any other action so serious that it affects the vendor's ability to satisfy its responsibilities to the Nation.
(j) "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.
~~(e) "License fee" means that fee charged for a vendor's license issued in accordance with this law.~~
~~(f~~(k) "Licensing" means the Licensing Department of the Oneida Nation.
(l) "Nation" means the Oneida Nation.
~~(g~~(m) "Non-renewal" means a vendor has chosen not to renew their vendor license without consideration, cause, or imposition of any penalty.
(n) "Notice" means a communication from the Licensing Department to a vendor. To communicate the renewal and maintenance of a vendor license, the Licensing Department will send notice by email or regular mail; to communicate the loss of licensure, the Licensing Department will send notice by certified mail.
(o) "Rule" means a set of requirements enacted in accordance with the Nation's Administrative Rulemaking ~~law~~Law.
(~~h) "Vendor's~~p) "Service" means an action performed by a vendor pursuant to an agreement with the Nation where the service subject to the agreement must be described sufficiently as to set the expectations for all parties.
(q) "Technology assessment" means the process where the Nation evaluates the technical capabilities and infrastructure of a potential or existing vendor to ensure they can meet the Nation's needs and requirements.
(r) "Vendor license" means a license issued by the Licensing Department to a business entity that ~~provides a service for, or that~~ does business with the Nation~~.~~ by entering agreements to provide goods or services to the Nation.

506.4. Scope
506.4-1. This law shall be adhered to by all business entities and shall apply to every business entity that performs services ~~and/~~or does business with the Nation separate from and in addition to those requirements imposed by other laws and rules of the Nation.

506.4-2. ~~All information given for the purpose of receiving a vendor's~~ Any record request related to a vendor license is~~:~~

~~(a) subject to a request for information and available for public inspection as provided in~~ subject to applicable laws and rules of the Nation.

~~(b)~~ 506.4-3. *Exemptions*. The following are exempt from licensure.

(a) Services or goods provided by another federally recognized tribe, subject to ~~internal audit~~all laws and rules of the Nation.

(b) Services or goods provided by another government, subject to all laws and rules of the Nation.

(c) Other vendors as identified by Licensing through standard operating procedures and published on the Nation's website.

506.4-4. *Rulemaking*. Licensing may promulgate rules establishing additional criteria for the approval and maintenance of a vendor license.

506.5. Application~~/Renewal~~ Procedures

506.5-1. ~~The Department~~*Application*. Licensing shall notify all ~~new~~ applicants of the requirements of this law; including any applicable rules and any necessary documentation that ~~the Department~~they may ask the applicant to provide. ~~All business entities~~A complete application shall ~~obtain and maintain adequate insurance coverage, as determined by the Risk Management Department, in cooperation with the Department.~~include:

(a) the application;

(b) a certificate of insurance demonstrating the vendor meets the minimum insurance requirements;

(c) completed DTS screening for technology risk assessment;

(d) vendor payment authorization form; and

(e) W-9.

506.5-2. ~~The Department~~*DTS Security Review*. All applicants for a vendor license shall complete DTS screening questions. If the vendor responded "yes" to any of the DTS screening questions, the vendor shall complete an additional technology assessment or CSRA or both. A license may not be issued until the technology assessment or CSRA or both are completed and approved by DTS.

(a) *Waiver*. Even if a vendor responded "yes" to any of the DTS screening questions, the vendor may be waived from completing an additional technology assessment or CSRA or both, if DTS, Risk Management, and the Chief Financial Officer waive an additional technology assessment or the CSRA or both.

506.5-3. *Licensing Review*. Licensing shall approve or deny an application based on compliance with the criteria set in this law~~, other Oneida laws~~ and any applicable rules, policies, or procedures.

506.6-5~~-3. The Department~~. *Notice to Applicant*. Licensing shall notify the applicant of the approval or denial of the application within ~~ten (10~~twenty (20) business days of Licensing's receipt of a complete application, and:

(a) if approved, ~~the Department~~Licensing shall issue the ~~vendor's~~vendor license to the business entity; or

(b) if denied, ~~the Department~~Licensing shall ~~provide~~notice the reason(s) for denial of the ~~vendor's~~vendor license; and notify the applicant of ~~his or her~~their right to file a complaint with the Judiciary challenging ~~the Department's action.~~Licensing's denial.

506.5-4. *Insurance*. Before the vendor performs any work, the vendor must demonstrate proof of appropriate and adequate insurance coverage; and if applicable, comply with all other laws, rules, or policies of the Nation implicating vendor licensing.

(a) The Nation's Risk Management Department shall determine what constitutes appropriate and adequate insurance coverage for varying types of goods and services; and shall make the minimum insurance requirements for all vendors available on the Nation's website, including the identification of the types of services or goods that require escalated insurance coverage, wherein the amount of coverage may be determined on a case-by-case basis.

506.5-5. *Record Retention*. All applications for a vendor license and licenses issued by Licensing as a result thereof shall be retained by Licensing for a period of seven (7) years from the later date of application or issuance.

506.6. Maintaining a Vendor License

506.6-1. *Annual Licensing Update*. On an annual basis, vendors shall provide Licensing with an updated certificate of insurance and complete the CSRA, to the extent the CSRA is required based on the initial cybersecurity risk assessment.

506.6-2. *Triennial Licensing Update.* Every three years vendors shall complete a full update of their information by providing an updated application with all forms required for a new application.

506.7. Deactivation or Revocation of a Vendor License

506.7-1. *Deactivation*. If a vendor is not in compliance with the requirements of section 506.7 of this law to maintain their vendor license, the vendor's license ~~and a copy of each~~ may be deactivated. Licensing shall provide notice to a vendor prior to potential deactivation stating the requirements to comply with this law to maintain a vendor license. If the vendor has not satisfactorily completed the requirements to maintain their vendor license within the allowable timeframe, Licensing shall deactivate the vendor's license ~~shall be retained by the Department in accordance with applicable laws and rules of the Nation.~~ .

~~506.5-5. Vendor's license renewal shall be on a yearly basis, from the date of issuance of the vendor's license.~~

~~**506.6. Fees for Licensure**~~

506.7-2. *Revocation*. Revocation is a cancellation of a vendor license for cause. Revocation is subject to Licensing discretion except that revocation is required for a failure to meet the Nation's insurance requirements. A vendor that has been revoked may not conduct business with the Nation.

(a) *Revocation for Insufficient Insurance*. In order to maintain a vendor license, a vendor must maintain appropriate and adequate~~506.6-1. License fees shall be determined and based upon the revenue as generated by the business entity with the Nation the year directly preceding the date upon which the business entity applies for licensure. Business entities with no revenue history shall pay a fee determined by the Department based upon a projected revenue figure. The Department may establish, by rule, any other fees that may be imposed in accordance with this law.~~

~~506.6-2. The Department shall retain not more than fifty percent (50%) of the fees collected in accordance with this law; the balance of the fees collected shall be transferred to the Trust Department to be placed in the Elderly Per Capita Fund.~~

~~**506.6**-3. The vendor's license fee shall cover a twelve (12) month period, and:~~

~~(a) The fee shall be paid annually at the time of the application. The Department shall return the fee if the application is denied.~~

~~(b) A late fee may be added to the cost of the annual license fee.~~

~~506.7. Revocation of Vendor's License~~

~~**506.7**-1. A vendor's license issued by the Licensing Department may be revoked by the Department if the business entity is in non-compliance with this law, has inadequate~~ insurance

coverage, as determined by the Nation's Risk Management Department. If or when Risk Management learns that a vendor does not meet the Nation's insurance requirements, Risk Management shall provide the vendor with a minimum of ten (10) business days to supply a satisfactory certificate of insurance. If the vendor does not cure within the timeframe given by Risk Management, Licensing shall revoke the vendor.

(b) *Revocation for Cause.* A vendor license may be revoked for cause as determined by Licensing upon the occurrence of any ~~other reasons~~of the following:

(1) A vendor's actions, whether directly or indirectly related to ~~protection of~~ the vendor's agreement with the Nation ~~and/or~~, present public health, safety, or welfare. ~~Prior~~ concerns to ~~revoking a~~the Nation or its members.

(2) A vendor's ~~license, the Department shall notify~~actions or inactions implicate poor quality of work or performance, or a lack of sound business practice as determined by Licensing in consultation with the Oneida Law Office and the Nation's business ~~entity of~~unit receiving goods or services from the vendor.

(c) *Form of Revocation.* Licensing may revoke the license upon notice to the vendor containing the effective date and duration of the revocation and the ~~reasons for the revocation, and shall allow the business entity thirty (30) days in which to rectify the non-compliance, except in the case of inadequate insurance coverage, in which case the vendor's license shall be revoked immediately upon verification of inadequate coverage.~~reason(s) for revocation.

~~**506.8.**~~ (1) A vendor license may be revoked for a duration to be identified by Licensing in consultation with the Oneida Law Office.

(2) In extreme circumstances, where a vendor has caused great harm to the Nation, a vendor may be permanently revoked.

506.8. ~~**Exemptions and Deferments**~~

Appeal

506.8-1. ~~The following are exempt from licensure:~~

~~(a) Services or products provided by another federally recognized tribe, subject to all the laws and rules of the Nation.~~

~~(b) Services or products provided by another government, subject to all the laws and rules of the Nation.~~

~~506.8-2. The Department may promulgate rules that establish additional exemptions and deferments from the licensing or fee requirements of this law.~~

~~**506.9. Department Decisions**~~

~~506.9-1.~~ The Judiciary is granted jurisdiction to hear complaints filed regarding actions taken by ~~the Department~~Licensing pursuant to this law.

506.~~9~~8-2. No administrative hearing body, including a board, committee, or commission, is authorized to hear a complaint filed regarding actions taken pursuant to this law.

506.~~9~~8-3. Complaints filed with the Judiciary shall name the Licensing Department as the responding party.

End.

Adopted- BC-2-19-92-C
Amended- BC-3-5-97-E
Amended- BC-02-25-15-C
Amended- BC-10-12-16-E

Title 5. Business - Chapter 506
VENDOR LICENSING
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506.1. Purpose and Policy
506.2. Adoption, Amendment Repeal
506.3. Definitions
506.4. Scope
506.5. Application Procedures
506.6. Maintaining a Vendor License
506.7. Deactivation or Revocation of a Vendor License
506.8. Appeal

506.1. Purpose and Policy

506.1-1. *Purpose*. The purpose of this law is to:

(a) regulate and license vendors who provide goods or services for, and do business with, the Nation; and

(b) ensure the Nation's safety, regulate compliance, minimize risk, and protect the Nation's assets.

506.1-2. *Policy*. It is the policy of the Nation to establish a fair system for implementing, administering, and enforcing the requirements to maintain a vendor license provided that all programs, enterprises, and tribal entities are encouraged to seek within their own employees those with expertise to meet the Nation's needs.

506.2. Adoption, Amendment Repeal

506.2-1. This law was adopted by the Oneida Business Committee by resolution BC-02-19-92-C and amended by resolutions BC-3-5-97-E, BC-02-25-15-C and BC-10-12-16-E.

506.2-2. This law may be amended or repealed by the Oneida Business Committee pursuant to the procedures set out in the Legislative Procedures Act.

506.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

506.2-4. 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.

506.2-5. This law is adopted under authority of the Constitution of the Oneida Nation.

506.3. Definitions

506.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) "Business day" means Monday through Friday from 8:00 a.m. to 4:30 p.m., excluding holidays recognized by the Nation.

(b) "Business entity" means a particular and discrete unit, which may include, but is not limited to, any person, independent contractor, sole proprietorship, partnership, corporation, joint venture, franchise, governmental enterprise, or any other natural or artificial person or organization. The term "entity" is intended to be as broad and

encompassing as possible to ensure this law covers all contracted goods or services within the jurisdiction of the Nation.

(c) "Certificate of Insurance" means a document issued by an insurance company that verifies the existence of an insurance policy and summarizes key aspects and conditions of the policy.

(d) "CSRA" means the Cyber Security Risk Assessment done by the Nation's Digital Technology Services department to assess potential cyber threats and vulnerabilities. The goal of the CSRA is to identify and prioritize risks and to develop strategies to reduce the likelihood and impact of a cyberattack.

(e) "Deactivate" means to turn off the vendor in the Licensing system for lack of current vendor information.

(f) "DTS" means the Nation's Digital Technology Services department.

(g) "Financial information" means any information related to the financial activities and performance of a business. For the purposes of this law, "financial information" may refer to income and tax reporting documents or direct deposit and banking information.

(h) "Goods" means quantifiable products, tangible or intangible, that must be provided pursuant to an Agreement with the Nation.

(i) "Great harm" means credible evidence exists that substantiates commission of any of the following actions: fraud, any violation of Federal or State antitrust statutes, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, obstruction of justice, or any other action so serious that it affects the vendor's ability to satisfy its responsibilities to the Nation.

(j) "Judiciary" means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.

(k) "Licensing" means the Licensing Department of the Oneida Nation.

(l) "Nation" means the Oneida Nation.

(m) "Non-renewal" means a vendor has chosen not to renew their vendor license without consideration, cause, or imposition of any penalty.

(n) "Notice" means a communication from the Licensing Department to a vendor. To communicate the renewal and maintenance of a vendor license, the Licensing Department will send notice by email or regular mail; to communicate the loss of licensure, the Licensing Department will send notice by certified mail.

(o) "Rule" means a set of requirements enacted in accordance with the Nation's Administrative Rulemaking Law.

(p) "Service" means an action performed by a vendor pursuant to an agreement with the Nation where the service subject to the agreement must be described sufficiently as to set the expectations for all parties.

(q) "Technology assessment" means the process where the Nation evaluates the technical capabilities and infrastructure of a potential or existing vendor to ensure they can meet the Nation's needs and requirements.

(r) "Vendor license" means a license issued by the Licensing Department to a business entity that does business with the Nation by entering agreements to provide goods or services to the Nation.

506.4. Scope

506.4-1. This law shall be adhered to by all business entities and shall apply to every business entity that performs services or does business with the Nation separate from and in addition to those requirements imposed by other laws and rules of the Nation.

506.4-2. Any record request related to a vendor license is subject to applicable laws and rules of the Nation.

506.4-3. *Exemptions*. The following are exempt from licensure.

(a) Services or goods provided by another federally recognized tribe, subject to all laws and rules of the Nation.

(b) Services or goods provided by another government, subject to all laws and rules of the Nation.

(c) Other vendors as identified by Licensing through standard operating procedures and published on the Nation's website.

506.4-4. *Rulemaking*. Licensing may promulgate rules establishing additional criteria for the approval and maintenance of a vendor license.

506.5. Application Procedures

506.5-1. *Application*. Licensing shall notify all applicants of the requirements of this law; including any applicable rules and any necessary documentation that they may ask the applicant to provide. A complete application shall include:

(a) the application;

(b) a certificate of insurance demonstrating the vendor meets the minimum insurance requirements;

(c) completed DTS screening for technology risk assessment;

(d) vendor payment authorization form; and

(e) W-9.

506.5-2. *DTS Security Review*. All applicants for a vendor license shall complete DTS screening questions. If the vendor responded "yes" to any of the DTS screening questions, the vendor will be required to complete an additional technology assessment or CSRA or both. A license may not be issued until the technology assessment or CSRA or both are completed and approved by DTS.

(a) *Waiver*. Even if a vendor responded "yes" to any of the DTS screening questions, the vendor may be waived from completing an additional technology assessment or CSRA or both, if DTS, Risk Management, and the Chief Financial Officer waive an additional technology assessment or the CSRA or both.

506.5-3. *Licensing Review*. Licensing shall approve or deny an application based on compliance with the criteria set in this law and any applicable rules, policies, or procedures.

506.6-4. *Notice to Applicant*. Licensing shall notify the applicant of the approval or denial of the application within twenty (20) business days of Licensing's receipt of a complete application, and:

(a) if approved, Licensing shall issue the vendor license to the business entity; or

(b) if denied, Licensing shall notice the reason(s) for denial of the vendor license; and notify the applicant of their right to file a complaint with the Judiciary challenging Licensing's denial.

506.5-5. *Insurance*. Before the vendor performs any work, the vendor must demonstrate proof of appropriate and adequate insurance coverage; and if applicable, comply with all other laws, rules, or policies of the Nation implicating vendor licensing.

(a) The Nation's Risk Management Department shall determine what constitutes appropriate and adequate insurance coverage for varying types of goods and services; and shall make the minimum insurance requirements for all vendors available on the Nation's website, including the identification of the types of services or goods that require escalated insurance coverage, wherein the amount of coverage may be determined on a case-by-case basis.

506.5-6. *Record Retention*. All applications for a vendor license and licenses issued by Licensing as a result thereof shall be retained by Licensing for a period of seven (7) years from the later date of application or issuance.

506.6. Maintaining a Vendor License

506.6-1. *Annual Licensing Update*. On an annual basis, vendors shall provide Licensing with an updated certificate of insurance and complete the CSRA, to the extent the CSRA is required based on the initial cybersecurity risk assessment.

506.6-2. *Triennial Licensing Update.* Every three years vendors shall complete a full update of their information by providing an updated application with all forms required for a new application.

506.7. Deactivation or Revocation of a Vendor License

506.7-1. *Deactivation*. If a vendor is not in compliance with the requirements of section 506.6 of this law to maintain their vendor license, the vendor's license may be deactivated. Licensing shall provide notice to a vendor prior to potential deactivation stating the requirements to comply with this law to maintain a vendor license. If the vendor has not satisfactorily completed the requirements to maintain their vendor license within the allowable timeframe, Licensing shall deactivate the vendor's license.

506.7-2. *Revocation*. Revocation is a cancellation of a vendor license for cause. Revocation is subject to Licensing discretion except that revocation is required for a failure to meet the Nation's insurance requirements. A vendor that has been revoked may not conduct business with the Nation.

(a) *Revocation for Insufficient Insurance*. In order to maintain a vendor license, a vendor must maintain appropriate and adequate insurance coverage, as determined by the Nation's Risk Management Department. If or when Risk Management learns that a vendor does not meet the Nation's insurance requirements, Risk Management shall provide the vendor with a minimum of ten (10) business days to supply a satisfactory certificate of insurance. If the vendor does not cure within the timeframe given by Risk Management, Licensing shall revoke the vendor.

(b) *Revocation for Cause.* A vendor license may be revoked for cause as determined by Licensing upon the occurrence of any of the following:

(1) A vendor's actions, whether directly or indirectly related to the vendor's agreement with the Nation, present public health, safety, or welfare concerns to the Nation or its members.

(2) A vendor's actions or inactions implicate poor quality of work or performance, or a lack of sound business practice as determined by Licensing in consultation with the Oneida Law Office and the Nation's business unit receiving goods or services from the vendor.

(c) *Form of Revocation.* Licensing may revoke the license upon notice to the vendor containing the effective date and duration of the revocation and the reason(s) for revocation.

(1) A vendor license may be revoked for a duration to be identified by Licensing in consultation with the Oneida Law Office.

(2) In extreme circumstances, where a vendor has caused great harm to the Nation, a vendor may be permanently revoked.

506.8. Appeal

506.8-1. The Judiciary is granted jurisdiction to hear complaints filed regarding actions taken by Licensing pursuant to this law.

506.8-2. No administrative hearing body, including a board, committee, or commission, is authorized to hear a complaint filed regarding actions taken pursuant to this law.

506.8-3. Complaints filed with the Judiciary shall name the Licensing Department as the responding party.

End.

Adopted- BC-2-19-92-C
Amended- BC-3-5-97-E
Amended- BC-02-25-15-C
Amended- BC-10-12-16-E

November 2026

LOC

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Nov 1	2 10:30 AM Initial Workgrou	3 8 AM Probate	4 8:30 AM LOC Prep Meeti 9 AM Legislative Operati	5	6 1 PM Marriage Law Amenc 2 PM Initial SME Workgrou	7
8	9 9 AM Minors Trust General 10 AM All-Terrain Vehicle L 1:30 PM Probate Draft Law	10 9 AM LOC Strategy Work M 2 PM Vendor Law	11 8 AM HOLIDAY OUT - Vete	12	13	14
15	16	17	18 8:30 AM LOC Prep Meeti 9 AM Legislative Operati 9:30 AM LOC Work Session 1:30 PM Water Resources L 3 PM LOC Work Session	19 10:30 AM Higher Educatior 2 PM Domestic Animals La 3 PM Ten day Notice Policy	20 10 AM Onsite Waste Dispo	21
22	23 9 AM Judiciary Law Amenc	24 9 AM Indian Preference Lav	25	26 8 AM HOLIDAY OUT - Thar	27 8 AM HOLIDAY OUT - India	28
29	30	Dec 1 10:30 AM Research Law De 2 PM Cemetery Law Amen	2 8:30 AM LOC Prep Meeti 9 AM Legislative Operati 1:30 PM LOC Work Session	3	4	5