

CIVIL PROCEDURE

GENERAL PROVISIONS

Section 1. Scope of This Act

This Act governs the procedure in the Courts of the Tribe in all suits of a civil nature whether cognizable as cases at law or in equity except where a law or ordinance of the Tribe specifies a different procedure. These rules shall be construed to secure the just, speedy, and inexpensive determination of every action.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 2. Jurisdiction in Civil Actions

The Tribal Court may exercise jurisdiction over any person or subject matter on any basis consistent with the Constitution of the Tribe, the Indian Civil Rights Act of 1968, as amended, and any specific restrictions or prohibitions contained in Federal law.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 3. Title of this Act

This Act shall be known as the Code of Civil Procedure

[History: PUBLIC LAW #SF 85-58, June 21, 1985.]

Section 4. Force of the Tribal Common Law

The customs and traditions of the Tribe, to be known as the Tribal Common Law, as modified by the Tribal Constitution and statutory law, judicial decisions, and the condition and wants of the people, shall remain in full force and effect within the Tribal jurisdiction in like force with any statute of the Tribe insofar as the common law is not so modified, but all Tribal statutes shall be liberally construed to promote their object.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

Section 5. Definitions

Unless a different meaning is clearly apparent from the context, the term:

- (a) "Chief Executive Officer" shall mean the Principal Chief of the Sac and Fox Tribe

CIVIL PROCEDURE

of Indians of Oklahoma, unless a different meaning is attributed to this term in an agreement with another Indian Tribe which provides for the operation of an intertribal Court.

(b) "other Indian Tribe" shall mean any Federally recognized Indian Tribe other than this Tribe.

(c) "real property" or "non-trust interest in real property" shall mean any interest in real property within the Tribal jurisdiction other than the Indian trust title held by the United States for the use of any Indian or Indian Tribe, or the fee title to any land held by any Indian or Indian Tribe which is subject to a restriction upon alienation imposed by the United States. Nothing in this Act shall be construed as affecting or attempting to affect the trust or restricted title to trust or restricted Indian land.

(d) "reservation" means the last recognized reservation boundaries of the Tribe irrespective of whether they have been disestablished.

(e) "Tribal Legislative Body" means the Business Committee of the Sac and Fox Tribe of Indians of Oklahoma unless a different meaning is attributed to the term by an agreement with another Indian Tribe providing for the establishment of an intertribal Court.

(f) "Tribal jurisdiction" means all Indian Country as defined in 18 U.S.C. §1151 whether within or without the reservation which is subject to the jurisdiction of the Tribe.

(g) "Attorney General" means the Tribal Attorney.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

Section 6. No Effect Upon Sovereign Immunity

Nothing in this Act contained shall be construed to be a waiver of the sovereign immunity of the Tribe, its officers, employees, agents, or political subdivisions or to be a consent to any suit beyond the limits now or hereafter specifically stated by a Tribal law.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

Section 7. Declaratory Judgment

The Court, in any actual controversy before it, shall have the authority to declare the rights of the parties in that suit in order to resolve disputes even though a money judgment or equitable relief is not requested or not due. In particular, the Court may issue its declaratory judgment recognizing Tribal common law marriages and divorces, and provide for the custody of children and division of property in such divorces.

CIVIL PROCEDURE

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

Section 8. Court Costs Not Charged to Tribe

The Tribe, its officers, employees, agents, or political subdivisions acting in their official capacity shall not be charged or ordered to pay any Court costs or attorney fees under this Act, but if these entities prevail in the action, the cost which such entities would have been required to pay may be charged as costs to the losing party as in other cases.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

Section 9. Effect of Previous Court Decisions

All previous decisions of the Courts of the Tribe, insofar as they are not inconsistent with this Act, shall continue to have precedential value in the Tribal Court.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

Section 10. C.F.R. Not Applicable

Any and all provisions of Part 11 of Title 25 of the Code of Federal Regulations as presently or hereafter constituted are declared to be not applicable to the Tribe.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

Section 11. Laws Applicable to Civil Actions

(a) In all civil cases, the Tribal District Court shall apply:

(1) The Constitution, Statutes, and Common Law of the Tribe not prohibited by applicable Federal law, and, if none, then

(2) The Federal law including Federal common law, and, if none, then

(3) The laws of any State or other jurisdiction which the Court finds to be compatible with the public policy and needs of the Tribe.

(b) No Federal or state law shall be applied to a civil action pursuant to paragraphs (2) and (3) of Subsection (a) of this Section if such law is inconsistent with the laws of the Tribe or the public policy of the Tribe.

CIVIL PROCEDURE

(c) Where any doubt arises as to the customs and usages of the Tribe, the Court, either on its own motion or the motion of any party, may subpoena and request the advice of elders and councilors familiar with those customs and usages.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]