

CIVIL PROCEDURE

CHAPTER EIGHT

PROVISIONAL AND FINAL REMEDIES AND SPECIAL PROCEEDINGS

Section 801. Seizure of Person or Property

At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by the law of the Tribe, existing at the time the remedy is sought.

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

Section 802. Receivers Appointed by Tribal Courts

An action wherein a receiver has been appointed shall not be dismissed except by order of the Court. The practice in the administration of estates by receivers or by other similar officers appointed by the Court shall be in accordance with Tribal probate law, or, if none, then the practice heretofore followed in the courts of the United States or as provided in rules promulgated by the District Court. In all other respects the action in which the appointment of a receiver is sought or which is brought by or against a receiver is governed by this Title.

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

Section 803. Deposit in Court

In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of Court, may deposit with the Court all or any part of such sum or thing. Money paid into Court under this Section shall be deposited and withdrawn in accordance with tribal law detailing accounting procedures for the Court Clerk's Office, and if there be none, then in accordance with the Tribal procedure for the administration and accounting of federal grant monies, upon order of the Court.

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

Section 804. Process in Behalf of and Against Persons not Parties

When an order is made in favor of a person who is not a party to the action, he may enforce obedience to the order by the same process as if he were a party; and, when obedience to

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an order may be lawfully enforced against a person who is not a party, he is liable to the same process for enforcing obedience to the order as if he were a party.

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

Section 805. Security - Proceedings Against Sureties

Whenever this Title or other Tribal law requires or permits the giving of security by a party, and security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits himself to the jurisdiction of the Court and irrevocably appoints the Clerk of the Court as his agent upon whom any paper affecting his liability on the bond or undertaking may be served. His liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the Court prescribes may be served on the Clerk of the Court, who shall forthwith mail copies to the sureties if their addresses are known.

Any surety authorized to give a bond or stipulation or other undertaking in either the Federal courts or the State courts within the State within which any portion of the tribal jurisdiction lies, and any individual approved by the Court who reside within the jurisdiction of Tribe (except officers of the Court or elected Tribal officials) shall be eligible to give such bond or stipulation, or undertaking in the District Court under this Title of other Tribal law unless otherwise prohibited by tribal law.

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

Section 806. Execution

(a) **In General.** Process to enforce a judgment for the payment of money shall be a writ of execution, unless the court directs otherwise. In aid of the judgment or execution, the judgment creditor or his successor in interest when that interest appears of record, may obtain discovery from any person, including the judgment debtor, in the manner provided in this Title.

(b) **Against Certain Public Officers.** When a judgment otherwise authorized has been entered against a collector or other officer of revenue of the Tribe or against an officer, or employee, or agency of the Tribe in their official capacity; or if judgment is entered against an individual in his personal capacity who purported to act as an officer or employee of the Tribe, and the Court has given certificate of probable cause for his act wherein the Court determines that the individual had probable cause to believe that his action was authorized by the Tribe in his official capacity, execution shall not issue against the officer or his property but the final judgment shall be

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satisfied as may be provided by appropriation of such judgment (or such part thereof as the legislative body of the Tribe deems permissible considering the extent of available tribal resources) from available tribal funds. This section is not intended, nor shall it be construed, as a waiver of sovereign immunity.

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