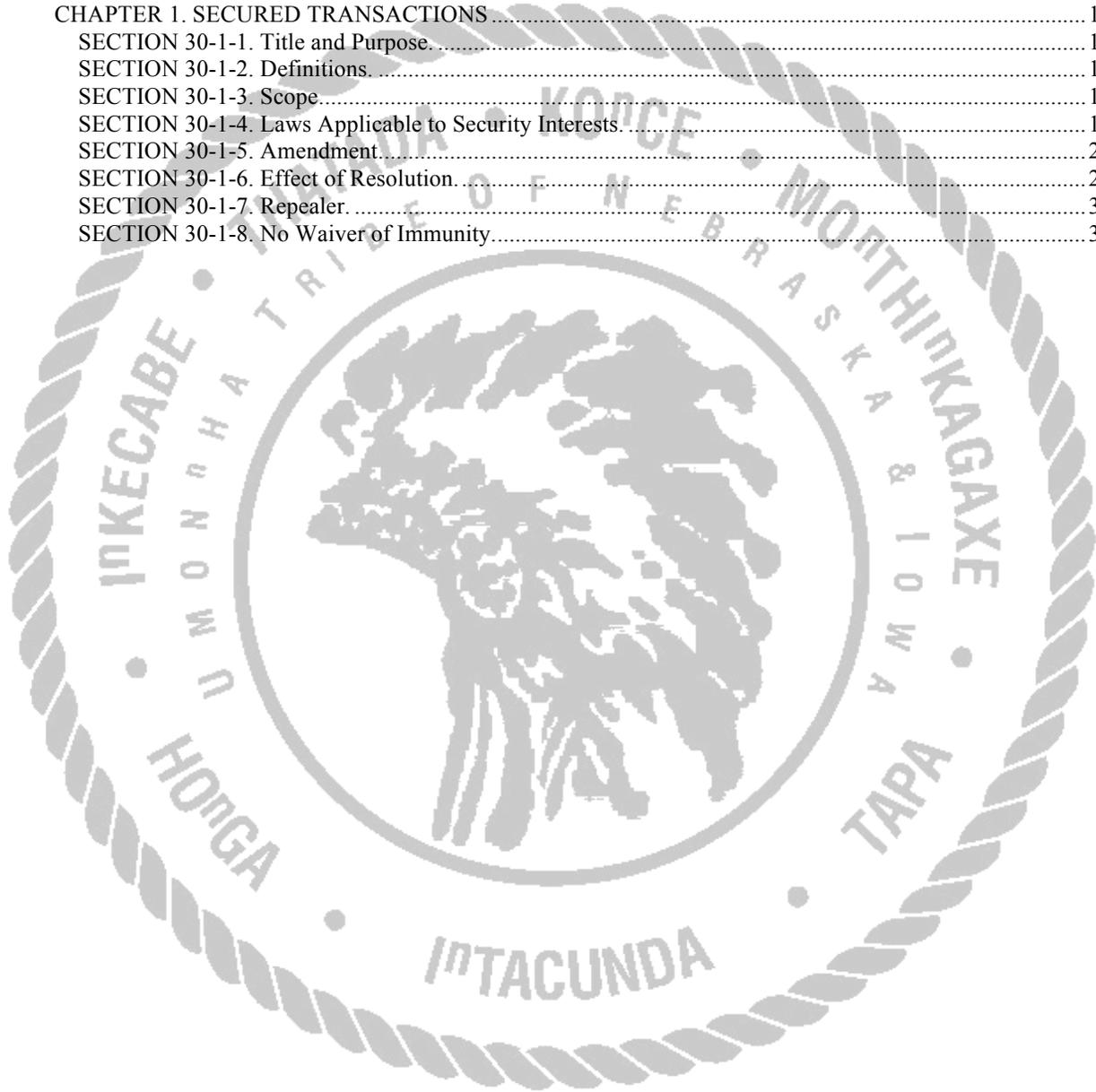


**OMAHA TRIBAL CODE (2013)**

**TITLE 30. SECURED TRANSACTIONS ORDINANCE**

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# OMAHA TRIBAL CODE (2013)

## TITLE 30. SECURED TRANSACTIONS ORDINANCE

### CHAPTER 1. SECURED TRANSACTIONS

*Source: Omaha Tribal Council Ordinance No. 07-69 (6-7-07)*

#### SECTION 30-1-1. Title and Purpose.

(a) Title. This Ordinance is entitled the “Omaha Tribe of Nebraska Secured Transactions Ordinance.”

(b) Purpose. The purpose of this Ordinance is to establish that under the law of the Omaha Tribe of Nebraska (“Tribe”), except as otherwise provided in this Ordinance, secured parties have the same rights with respect to collateral, subject to the sovereign authority of Tribe, as would exist if all aspects of the security interest (including but not limited to its creation, attachment, perfection and priority) had been governed by the Uniform Commercial Code of the State of Nebraska (“Nebraska UCC”), without regard to the choice of law principles included in the Nebraska UCC.

#### SECTION 30-1-2. Definitions.

In this Ordinance, the terms listed below have the following meanings:

(a) “Nebraska UCC” means Articles 1-10 of the Uniform Commercial Code, as enacted in the Nebraska Statutes, Neb. Rev. St. U.C.C. §§ 1-101 et seq., as amended in accordance with the laws of the State of Nebraska.

(b) “Pledged Revenues” means all of a Tribal Party’s money, earnings, income and revenues, (and any proceeds from these assets), and all of the Tribal Party’s rights to and interest with respect to receiving the foregoing before actual possession, whether in the form of money, deposit accounts, investments, accounts, instruments or other assets, and the proceeds thereof, in which such Tribal Party has granted a security interest to a secured party in a writing signed by the Tribal Party.

(c) “Tribal Lands” means all lands within the Tribe’s reservation and all lands held by the United States in trust for the benefit of the Tribe or individual members of the Tribe over which the Tribe exercises jurisdiction.

(d) “Tribal Party” means any of the Tribe and any division, subdivision, branch, department, board, committee, commission, agency, enterprise, instrumentality, or entity wholly owned or wholly controlled, directly or indirectly, by the Tribe, along with the successors and assigns of each.

(e) Any undefined terms that are defined in the Nebraska UCC are used in this Ordinance with the meanings that apply in the Nebraska UCC.

#### SECTION 30-1-3. Scope.

(a) This Ordinance shall apply to all security interests and collateral subject to the sovereign authority of the Tribe to the same extent provided in Section 9-109 of the Nebraska UCC. The provisions of Section 9-109(c) of the Nebraska UCC shall not limit the application of the Nebraska UCC in accordance with this Ordinance.

(b) This Ordinance is intended to be a law, within the meaning of Section 9-307(c), which requires information concerning the existence of a non-possessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral.

**SECTION 30-1-4. Laws Applicable to Security Interests.** *[Note: The provisions of Section 30-1-4 were amended by Resolution No. 14-84 on May 22<sup>nd</sup>, 2014]*

(a) With respect to any security interest to which this Ordinance applies, except as provided

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elsewhere in this Section 4, the rights and obligations of any person are governed by the Nebraska UCC, including those rights and obligations related to enforcement of a security interest or arising after a default.

(b) Except as provided elsewhere in this Section 4, the perfection, effect of perfection or nonperfection, and priority of any security interest to which this Ordinance applies shall be determined in accordance with the Nebraska UCC as if each debtor were (for purposes of Sections 9-301 through 9-307 of the Nebraska UCC) located in the State of Nebraska and as if the Tribal Lands were located in the State of Nebraska. The provisions of the Nebraska UCC that determine the location of a debtor do not apply.

(c) Notwithstanding any provision of the Nebraska UCC or this Ordinance to the contrary, a security interest granted by a Tribal Party in Pledged Revenues is created and attaches upon the giving of value and the granting of the security interest in a writing executed by that Tribal Party. The security interest may be perfected only by the filing of an initial financing statement, which becomes effective and remains in effect once filed without need for further renewal or extension if:

- (1) financing statement is filed in the filing office designated by the Nebraska UCC; and
- (2) financing statement is filed in the filing office designated by the Iowa UCC; and,
- (3) financing statement is filed in the filing office designated by the District of Columbia UCC.

(d) Parties seeking to perfect a security interest granted by a Tribal Party are not required to file a UCC financing statement with the Tribe. Accordingly, filing financial statements with the Tribe will have no effect in perfecting a security interest.

(e) Notwithstanding any other provisions of this Section or the Nebraska UCC, this Ordinance shall be applicable to the Tribe as a debtor even though the Tribe is a government.

(f) Notwithstanding any other provision of the Nebraska UCC or this Ordinance to the contrary, so long as a secured party holds a security interest in a deposit account or money perfected in accordance with this Ordinance or the Nebraska UCC, a lien creditor may not enforce its lien rights with respect to such deposit account or money by garnishment, levy or any other method of enforcement. As used in this paragraph, "lien rights" means, with respect to a lien creditor, the lien or other rights by reason of which such person is characterized as a lien creditor. "Lien rights" do not include any consensual security interest granted under Article 9 of the Uniform Commercial Code as adopted in any applicable jurisdiction or any comparable law.

### **SECTION 30-1-5. Amendment.**

Once applied to any security interest, this Ordinance remains in effect with respect to that security interest until all secured obligations have been fully and finally discharged or otherwise fully satisfied, except that this Ordinance may be amended, with prior notice to each secured party, only to the extent the amendment is not adverse in any way to any secured party with respect to any security interest.

### **SECTION 30-1-6. Effect of Resolution.**

- (a) This Ordinance is effective on the date of its enactment.
- (b) This Ordinance constitutes the law of the Tribe and may be relied on by any lender and their respective successors, assigns, and participants.
- (c) This Ordinance constitutes the terms of an agreement and contract between the Tribe and any secured party relying on it.
- (d) The provisions of this Ordinance shall not be rescinded, amended, or modified in any manner that may result in an adverse effect on any secured party relying on it without the written consent of each secured party so affected.

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## SECTION 30-1-7. Repealer.

Any laws, ordinances, rules, regulations, decisions, orders, judgments, resolutions, or other action of the Tribe or any tribal entity or enterprise, whether written, unwritten or established by tradition that are in effect and conflict or are inconsistent with the terms of this Ordinance, other than the Constitution of the Tribe, are repealed and annulled, superseded by the applicable provisions of this Ordinance.

## SECTION 30-1-8. No Waiver of Immunity.

Nothing in this Ordinance waives or impairs the Tribe's sovereign immunity or the sovereign immunity of any other Tribal Party.

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