

**BISHOP PAIUTE TRIBE
ORDINANCE GOVERNING ENFORCEMENT OF WRITS OF ATTACHMENT,
GARNISHMENT, WAGE WITHHOLDING, LEVIES AND SIMILAR ORDERS
DIRECTED AGAINST THE WAGES DUE TO TRIBAL EMPLOYEES AND
PROCESSING OF "OTHER "JUDGEMENTS OR COURT ORDERS**

CHAPTER 1 - GENERAL PROVISIONS

Sec. 101. Purpose

The Bishop Paiute Tribe ("Tribe"), in the exercise of its sovereign authority, hereby establishes the procedures under which the Tribe, as a matter of tribal law, will process requests for enforcement of writs of attachment, wage garnishment orders, wage withholding, levies and similar orders directed against the wages of a tribal employee that have been issued by another tribe, the federal government, a state or other foreign jurisdiction.

Sec. 102. Definitions

The following definitions shall apply in this Ordinance:

- (a) "Reservation" shall mean the Bishop Paiute Reservation, Bishop, California.
- (b) "Tribe" shall mean the Bishop Paiute Tribe and any agency, department, entity, or corporation chartered or established by the Tribe.
- (c) "Wage withholding order" shall refer to any order issued by any tribal, state or federal court, or any tribal or state department or agency authorized by tribal or state law to make determinations on child support and issue orders, or the United States Internal Revenue Service, or the United States Secretary of Education, which directs the attachment or withholding of wages of a employee of the Tribe to pay a debt, whether such wage withholding order is labeled or described as a writ of attachment, levy, garnishment, payroll deduction or wage withholding order.
- (d) "Tribal Court" means the court of general or limited jurisdiction established by the Tribe pursuant to tribal law.

CHAPTER 2 - WAGE WITHHOLDING ORDERS ON DEBTS OWED TO THE UNITED STATES GOVERNMENT OR TO ENFORCE CHILD SUPPORT OBLIGATIONS

Sec. 201. Applicability

The following procedures shall apply to any wage withholding order directed to the Tribe for the attachment or garnishment of the wages due to an employee of the Tribe, and which is issued by either: (a) the United States Internal Revenue Service, (b) any United States court

regarding a debt owed to the United States government, (c) the Secretary of the United States Department of Education regarding a debt owed on a student loan guaranteed or made by the United States, or (d) a tribal or state court or tribal or state agency with authority to determine child support obligations and for the purposes of enforcing a child support order.

Sec. 202. Verification and Enforcement

(a) Upon receipt of a wage withholding order issued by either (1) the United States Internal Revenue Service, (2) by any United States court regarding a debt owed to the United States government, or (3) by the Secretary of the United States Department of Education regarding a debt owed on a student loan guaranteed or made by the United States, or (4) a tribal or state court, or tribal or state agency with authority to determine child support obligations, to enforce a child support order, the order shall be forwarded to the Tribal Administrator who shall forward the wage withholding order to the appropriate tribal payroll department.

(b) Upon receipt of a wage withholding order from the Tribal Administrator, the appropriate payroll department shall take appropriate steps to verify that the person whose wages are to be attached or garnished is a tribal employee and verify that the wage withholding order is one of the orders described in Section 202(a)(1)-(4).

(c) Upon confirmation of the matters as required in Section 202(b), the payroll department shall enforce the wage withholding order as provided in the order once the notice requirements of Sec. 203 have been complied with.

(d) In the event that the individual is not a tribal employee, the payroll department shall send a written notice to the Tribal Administrator, who shall then contact the person or agency that submitted the wage withholding order so advising them.

Sec. 203. Notice to Affected Employee

When a wage withholding order is enforced, the payroll department shall provide written notice to the affected employee informing that employee of the Tribe's receipt of the wage withholding order and the Tribe's intended action in enforcing that order and enclose a copy of the order being enforced. This notice must be given in writing to the employee within five (5) days of receipt of the wage withholding order by the payroll department.

The employee has the right to appeal the amount of money to be deducted (withheld) from each payroll check if an appeal is filed by the employee with the Tribal Court within ten (10) days of the payroll department receiving the wage withholding order. However, the sole issues to be determined by the appeal are whether the deductions actually to be withheld are to be as directed by the wage withholding order or a lesser amount.

The appealing employee may present at the hearing any and all mitigating factors, which the employee believes would justify a reduction in the amount to be withheld from each payment.

In any event, the Court does not have the authority to reduce the withholding deduction less than twenty-five (25) percent of the employee's disposable wages for any pay period.

If the employee does not appeal the wage withholding order within the five-day period as provided hereinabove, the payroll department shall enforce the wage withholding order as presented.

Sec. 204. Termination of Wage Withholding

The wage withholding order shall lapse when either: (a) notice is provided by the agency or court which issued the order that the judgment or order has been satisfied, or (b) the employee ceases to be employed by the Tribe, whichever occurs first.

CHAPTER 3 - WAGE WITHHOLDING ORDERS ISSUED BY OTHER TRIBES OR STATES ON DEBTS OTHER THAN CHILD SUPPORT

Sec. 301. Applicability

(a) The procedures in this Chapter shall apply to wage withholding orders directed to the wages of tribal employees that have been issued by or in a judicial proceeding of another tribe or of a state and for the purpose of satisfying a debt other than a child support obligation.

(b) Upon receipt of such a wage withholding order, the Tribe shall send a written notice to the party or entity seeking enforcement of the order to advise such party: (1) that the Tribe, as a federally recognized sovereign Indian tribe, is not subject to the jurisdiction of any state, other tribe, or other foreign jurisdiction and has immunity from such orders, (2) that the Tribe, in the exercise of its sovereign authority, and as a matter of tribal policy, has established law and procedures under which requests to attach or withhold wages of tribal employees may be enforced by the Tribe as a matter of tribal law as provided in this Chapter, and (3) that any request to attach wages of a tribal employee must be submitted to the Tribal Court in accord with this Chapter.

Sec. 302. Procedure for Petitioning for Enforcement of a Wage Withholding Order

(a) Any person or other tribe, state, or foreign jurisdiction that wishes to enforce a wage withholding order against the wages of an employee of the Tribe ("petitioner"), must apply to the Tribe by submitting a written petition requesting enforcement of the wage withholding order to the Tribal Court.

(b) The petition shall be accompanied by a certified copy of the wage withholding order, a certified copy of the court judgment or order setting the amount of the underlying debt,

and documentation showing the jurisdiction of the court, the authority for entering the wage withholding order, the name of the person subject to the order, the amount of the debt or judgment that remains due and unpaid, and the amount of wages to be withheld.

Sec. 303. Notice to Tribal Employee

The petitioner shall also serve a copy of the petition and its enclosures on the tribal employee against whom the order is to be enforced. Service shall be made in one of the following ways:

- (a) to the tribal employee personally;
- (b) to a person of suitable age at the tribal employee's residence; or
- (c) by certified mail with return receipt requested.

An affidavit that the tribal employee was served with a copy of the request to enforce the wage withholding order, stating how and when service was made, shall be submitted to the Tribal Court.

Sec. 304. Tribal Employee Right to Object

(a) Following receipt of an affidavit showing that the petition to enforce a wage withholding order was served on the tribal employee, the Tribal Court shall review the petition to determine whether it is complete as required by Section 302(b).

(b) If the petition is not complete, the Tribal Court shall send written notice to the petitioner advising the petitioner that the petition is not complete and that a complete petition must be submitted before it will be considered by the Court.

(c) If the petition is complete, the Tribal Court shall send or cause to be delivered, a notice to the affected tribal employee that the Court received the request to enforce a wage withholding order against the wages of the tribal employee, enclosing a copy of the request with all its attachments, and advising the tribal employee that unless he or she submits a written objection to the Tribal Court within 30 days, the order will be enforced.

(d) If no written objection is made by the tribal employee, the wage withholding order shall be enforced against the wages of the tribal employee, consistent with Section 306 below.

(e) If a written objection is made by the tribal employee within 30 days after receipt of the notice from the Tribal Court, the Court shall notify the petitioner in writing that an objection was made, enclosing a copy of the objection, and advising the petitioner of its right to provide any additional information in support of the request within 30 days. The Court shall take steps to ensure that both the petitioner and the affected tribal employee receive all information submitted or objections raised by the other, and that each has an opportunity, within such additional period of time as determined by the Court, to respond in writing, to the information or

position of the other.

Sec. 305. Decision on the Request for Enforcement of a Wage Withholding Order

The Court shall consider the materials submitted to determine whether the wage withholding order should be enforced. The Court shall not review the merits of the wage withholding order, nor the merits of the underlying judgment, but the Court's review shall be limited to issues regarding:

- (a) whether the court or administrative agency had jurisdiction to enter the order;
- (b) whether the defendant had due process including proper notice and a fair hearing;
- (c) whether collusion, fraud or clear mistakes of law or fact are present;
- (d) whether there is a conflict with any state or federal law;
- (e) whether there is a conflict with any law or policy of the Tribe.

Sec. 306. Enforcement of a Wage Withholding Order

(a) The maximum amount of wages in any pay period subject to any wage withholding order shall be consistent with the schedule then currently in effect by the State of California or the County of Inyo, whichever is less, but in any event, deductions are not to exceed twenty-five percent (25%) of the employee's disposable wages for that pay period.

(b) In the event that more than one wage withholding order has been issued against the wages or salary of a tribal employee, the following priorities shall be given to such orders:

(1) first priority shall be given to levies, payroll deductions or any other wage withholding order described in Section 202(a);

(2) second priority shall be given to any wage withholding order to pay child support;

(3) any other wage withholding order shall be enforced based on the date when the request for enforcement of the order was approved by the Tribal Court, with earlier-approved orders given priority over orders subsequently approved by the Tribal Court.

Sec. 307. Notice of Decision

The Court shall notify the tribal employee and the petitioner of the Court's decision on the request in writing. The Court's order shall state whether the order will be enforced, and if enforced, the amount of the wages of the employee to be withheld. There shall be no appeal of the Court's decision. A copy of the Court's order shall also be sent to the appropriate payroll department for enforcement.

Sec. 308. Termination

A wage withholding order of a tribal employee's wages shall lapse when the judgment is satisfied or the employee ceases to be an employee of the Tribe, whichever occurs first.

CHAPTER 4 – INTERIM PROVISIONS

On the date of enactment of this Ordinance, the Tribe has by Ordinance established a Tribal Court. Until the Tribal Court is operating ("interim period"), the Tribal Administrator shall carry out the duties of the Tribal Court in this Ordinance. During the interim period, any petitions filed pursuant to Section 302 shall be submitted to the Tribal Administrator, and the Tribal Administrator shall undertake the review and make the determinations to be made by the Tribal Court under Sections 304 through 308. When the Tribal Court becomes operational, the Tribal Court shall assume its duties and authority under this Ordinance, and the duties and authority conferred on the Tribal Administrator under this Section shall terminate.