

## **RESOLUTION 76-01**

### **MINNESOTA CHIPPEWA TRIBE PROBATE CODE**

**WHEREAS**, the Constitution of the Minnesota Chippewa Tribe was adopted to promote the general welfare of the members of the constituent Bands of the Tribe (Article 1, Section 3), and

**WHEREAS**, the Minnesota Chippewa Tribe and each of its six constituent Bands possess the inherent authorities of sovereign governments over our lands, and

**WHEREAS**, the pernicious and destructive policies of the "Allotment Acts" have resulted in fractionation of the ownership of trust lands on our reservations, and

**WHEREAS**, the Government of the United States has enacted the Indian Land Consolidation Act Amendments of 2000, Pub. L. 106-462, ("Act") to assist Indian Tribes in consolidating title to trust lands on their reservations by restricting devise or descent of such lands to non-members, and

**WHEREAS**, the Minnesota Chippewa Tribe and its six constituent Bands seek to further their social, religious, political and economic interest through consolidation and utilization of the lands of their reservations.

**NOW THEREFORE BE IT RESOLVED**, that the following Ordinance is adopted:

#### **Chapter 1 – Tribal Land Consolidation**

Section 1: Authority – This Chapter is enacted by the Minnesota Chippewa Tribe and the sovereign, federally recognized tribal governments of the Bois Forte (Nett Lake), Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth Bands, pursuant to their inherent governmental authorities, the Minnesota Chippewa Tribe Constitution and Bylaws, the Indian Land Consolidation Act Amendments of 2000, and all other applicable federal laws and regulations.

Section 2: Affected Lands – This Chapter applies to trust or restricted lands, as defined in Sec. 207(d)(1) of the Act, within a Band's reservation or otherwise subject to the Band's jurisdiction. In the event that the Band government with jurisdiction over the reservation lands, enacts an alternative Probate Code governing restrictions on inheritance, the Band Code will be given full force and effect in preference to the provisions of this Section.

Section 3: Limitation on Inheritance and Devise – Any person who is not an enrolled member of the Minnesota Chippewa Tribe shall not be entitled to receive by devise or descent through intestate succession, any interest in lands subject to this Chapter. Except that, any ineligible devisee has a right to renounce in writing such devise in favor of another person or persons who are eligible to inherit under this Chapter.

Section 4: Payment of Just Compensation –

- (A) In the event any person shall be subject to the limitation in Sec. 3 of this chapter, such person shall be entitled to just compensation in the form of payment of an amount equal to the fair market value of the interest in the land as determined by the Secretary of the Interior after appraisal, or such other means of compensation as may be agreed between the Band and the ineligible individual.
- (B) in the event an ineligible heir can be identified, but not found, an amount identified under Subsection (A) shall be paid to the Secretary to be held in trust for that individual for a period of two (2) years. In the event the ineligible heir does not make claim upon such funds within the identified period, such funds and any applicable interest payments thereon shall be forfeited to the band, or to the Secretary in the event federal funds were used for payment of the identified amount.

Section 5: Time for Claim of Restriction – Any claim to restrict inheritance under this Chapter, through intestate succession or devise, shall be raised uniformly by the interested Band or the Tribe during the pendency of the Secretarial probate of the decedent's estate. Claim shall be considered raised by operation of law as to any interest affected under this Chapter, and the probate judge shall assess against the affected reservation, such amounts as required by Section 4 of this Chapter whether or not the reservation makes an appearance, in person or in writing, at the probate hearing. Such assessment shall be paid by and the title passed to the Band within one year of the notice of assessment for fair market value, or the Band will be presumed to have waived its rights under Section.

Section 6: Title to the Band –

- (A) Title to any interest in land that has been limited and compensated under this Chapter shall be taken into trust, on a uniform basis, for the benefit of the Band on whose reservation the affected lands are located or, alternatively, are public domain allotments otherwise subject to the Band's jurisdiction, as provided under Sec. 206(c) of the Act.
- (B) In the event an intestate decedent Tribal member has no Indian heir of the first or second degree to whom interest in trust or restricted land may pass, such interests shall revert to the Band on whose reservation such lands are located, or otherwise has jurisdiction over the lands, as provided by Sec. 207(b)(4) of the Act, subject to the right of acquisition of an Indian co-owner to acquire such interest by paying the decedent's estate the fair market value of such interest, or if there are more than one such co-owners bidding, the highest offer for such interest.


Section 7: Testamentary Disposition – Testamentary dispositions of interests in lands subject to this Chapter shall be subject to the restrictions of Sec. 207(a) of the Act, such provisions be incorporated herein by reference. Any testamentary disposition to an individual who is a non-Indian spouse or non-Indian heir of the first or second degree of a Tribal member decedent shall be limited to a life estate interest in the land, as defined in Sec. 206(c)(2)(B) of the Act.

Section 8: Intestate Succession - Intestate succession of trust interests of decedent Tribal members shall pass pursuant to Section 207(b) of the Act.

Section 9: Saving Clause – This Chapter is promulgated pursuant to Sect. 206 of the Act. This Chapter shall be read in all cases as being consistent with the provisions of the Act in all matters.

We do hereby certify this resolution was duly presented and acted upon by a vote of 11 For, 0 Against, 0 Silent, at a regular meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present held on January 25, 2001, at Onamia, Minnesota.

  
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Peter J. Defoe, President  
THE MINNESOTA CHIPPEWA TRIBE

  
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Eli O. Hunt, Secretary  
THE MINNESOTA CHIPPEWA TRIBE

Approval of the Secretary of the Department of the Interior pursuant to 25 U.S.C.  
Section 2205

By:

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