

**CITIZEN POTAWATOMI NATION  
COLLECTION, REPOSSESSION AND CIVIL FORFEITURE  
TITLE 10**

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## **CHAPTER ONE FORCIBLE ENTRY AND DETAINER**

### **Section 10-1-101 Forcible Entry and Detention**

The District Court shall have jurisdiction for forcible entry and detainer, or detainer only, of real property. Claims for the collection of rent or damages may be included but other claims may not. A judgment under this act shall be conclusive as to issues adjudicated but it shall not bar other action.

### **Section 10-1-102 Powers of Court**

The Court shall have power to inquire. If an unlawful and forcible entry has been made, or the lands and tenements are held unlawfully. The court shall grant plaintiff restitution upon a finding.

### **Section 10-1-103 Extent of Jurisdiction**

Actions may be filed against tenants holding over their terms and in real estate sales on judicial process, when the judgment debtor was in possession at judgment or decree; in sales by executors, administrators, guardians and on partition, where parties to the partition were in possession at commencement after sales, on execution or otherwise, shall have been adjudged valid; and where defendant is a occupier of lands and tenements without color of title. This section is not to be construed as limiting the provisions of the preceding section.

### **Section 10-1-104 Issuance and Return of Summons**

The summons shall be issued and returned as in other cases, except shall command the Police Chief or server, to summon the defendant to appear for trial at the time and place specified which shall be not less than ten (10) nor more than twenty (20) days from when the summons is issued. The summons shall apprise the defendant of the nature of the claim and the relief sought and the amount of judgment if defendant fails to appear. Pleadings may be amended to conform to the evidence.

### **Section 10-1-105 Service of Summons**

The summons may be served as in other cases except service shall be at least ten (10) days before trial, and the return shall not be later than the day of trial, and also by leaving a copy with some person over fifteen (15) years residing on the premises, at least ten (10) days before trial; or, if service cannot be made by the exercise of reasonable diligence it may be served by registered mail with return receipt postmarked at least ten (10) days before trial.

### **Section 10-1-106 Constructive Service of Summons**

If, with reasonable diligence, service cannot be made then service may be obtained for the sole purpose of restitution by the Tribal Police's posting summons conspicuously on the building on premises, and, if no building then by posting at some conspicuous place on the premises at least fifteen (15) days prior to trial, and by claimant's mailing a copy of summons to defendant at last-known address by registered or certified mail at least ten (10) days prior to trial. Service shall not render judgment for payment of money nor any relief other than the restoration of possession. Service shall not be ineffectual by the failure of defendant to actually receive or sign a return receipt.

**Section 10-1-107 Answer or Affidavit by Defendant**

(A) When defendant asserts title or boundaries are in dispute, they shall file a verified answer or affidavit which contains a full and specific statement of their defense. If defendant files an affidavit he shall file an answer within ten (10) days after the affidavit.

(B) No answer by defendant shall be required before the trial.

**Section 10-1-108 Trial by Court**

All cases for forcible entry and detainer or detainer shall only be tried by the Court.

**Section 10-1-109 Reserved**

**Section 10-1-110 Attorney Fee**

A reasonable attorney fee shall be allowed to the prevailing party.

**Section 10-1-111 Writ of Execution – Form – New Trial**

If judgment be for plaintiff, the Court shall, issue a writ of execution which shall be substantially the following:

The Potawatomi Nation. The Potawatomi Nation to the Police Chief:

Whereas, in an action for the forcible entry and detention of the following described premises, \_\_\_\_\_ tried before me, wherein, \_\_\_\_\_ was plaintiff, and \_\_\_\_\_ was defendant, judgment was rendered on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that plaintiff have restitution of the premises; and recover rent, attorney fees and costs in the sum of \_\_\_\_\_; you, therefore, are commanded to cause the defendant to be removed from the premises and plaintiff to have possession; also that you levy on the goods and chattels of defendant, and make the costs of this writ, make legal service and due return.

Witness my hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
District Judge

A motion for new trial may be filed within three (3) days of judgment but shall not stay execution.

**Section 10-1-112 Stay of Execution**

The defendant shall have three (3) days after judgment to post an appeal bond. This time limit may be enlarged by order not more than ten (10) days after judgment. Bond shall not relieve defendant of paying current rent while the appeal is pending. The rent shall be paid to the Court Clerk's office. An amount of rent shall be determined by order. Withdrawal by plaintiff of rent deposited pending appeal shall not stop right to possession. Failure to pay current rentals while the appeal is pending is abandonment of the appeal.

**Section 10-1-113 Reserved**

**Section 10-1-114 Affidavit Form**

The actions for unlawful entry and detainer alone or when joined with a claim for collection of rent or damages shall be commenced by filing an affidavit in the following form:

In the District Court, Citizen Potawatomi Nation Tribe,

\_\_\_\_\_  
Plaintiff

vs.

\_\_\_\_\_  
Defendant

AFFIDAVIT

\_\_\_\_\_, being duly sworn, deposes and says:

The defendant resides at \_\_\_\_\_,  
and defendant's mailing address is \_\_\_\_\_

The defendant is indebted to the plaintiff in the sum of \$\_\_\_\_\_ for rent and for the further sum of \$\_\_\_\_\_ for damages to the premises rented by the defendant; the plaintiff has demanded payment of said sum(s) but the defendant refused to pay and no part of the amount sued for has been paid,  
and/or

The defendant is wrongfully in possession of certain real property within Tribal jurisdiction described as \_\_\_\_\_; the plaintiff is entitled to possession and has made demand on the defendant to vacate the premises, but defendant refused to do so.

\_\_\_\_\_  
Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public (Clerk)

### **Section 10-1-115 Summons - Forms**

The summons to be issued for forcible entry and detainer shall be in the following form:

#### SUMMONS

The Citizen Potawatomi Nation to \_\_\_\_\_ defendant:

You are directed to relinquish immediately to plaintiff total possession of the real property described as \_\_\_\_\_  
or to appear and show cause why you should be permitted to retain control and possession.

This matter shall be heard at  
\_\_\_\_\_ [Name or address of building], in \_\_\_\_\_,  
[Town], \_\_\_\_\_ at the hour of \_\_\_\_\_ o'clock of \_\_\_\_\_ day of month,  
20\_\_\_\_\_, or you are further notified if you do not appear on the date shown, judgment  
will be given against you as follows:

For the amount of the claim for deficient rent and/or damages to the premises, as stated in the affidavit of plaintiff and for possession of the real property, whereupon a writ of assistance shall issue directing the Tribal Police to remove you from said premises and take possession.

A judgment for costs, including attorney's fees and other costs, may also be given.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Clerk of the Court

\_\_\_\_\_  
Plaintiff or Attorney

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

## **CHAPTER TWO REPLEVIN**

### **Section 10-2-101 Order of Delivery - Procedure**

- (A) The plaintiff in an action to recover possession of specific personal property may claim the delivery at the commencement provided.
- (1) The complaint must allege
    - (a) A description of the property
    - (b) Plaintiff is the owner or has special ownership or interest and he is entitled to immediate possession
    - (c) The property is wrongfully detained by defendant
    - (d) The actual property value when articles are claimed, the value of each as practicable
    - (e) The property was not taken in execution on order or judgment against plaintiff, or other process or if taken in execution it is exempt by law and
  - (2) The above allegations are verified by the party or, his agent or attorney
  - (3) A notice shall be issued and served on defendant with summons which shall notify an order of delivery is sought and the defendant may object by written objection filed with the Clerk and delivered or mailed to plaintiff's attorney within five (5) days of the service. If no written objection is filed, no hearing is necessary and the Court Clerk shall issue the order of delivery. If a written objection is filed the Court shall set the matter for hearing. No order of delivery may be issued until sureties have been executed.
- (B) Where required notice cannot be served but the Judge finds a reasonable effort to serve was made and the plaintiff has shown the probable truth of the allegations the Court may issue an order for prejudgment delivery. Without actual notice, the defendant may move to have said order dissolved and for return of the property. Notice of the right to move for return of property shall be served upon the defendant or in a conspicuous place where the property was seized, and the Police Chief shall hold said property for three (3) working days prior to delivery to plaintiff. Notice of said motion with the hearing date shall be served upon the plaintiff attorney. The motion shall be heard within ten (10) days after the date filed. The Court must grant the motion unless, the plaintiff proves the probable

truth of the complaint's allegations. If said motion is filed before the Police Chief turns the property over the Chief shall retain control pending the hearing.

- (C) The Court may, order the defendant not to conceal, damage or destroy and not remove the property from Tribal jurisdiction pending the hearing on plaintiff's request for prejudgment delivery and the order may be served with the summons.

### **Section 10-2-102 Penalty for Damage of Property Subject to Order of Delivery**

Any person who willfully and knowingly damages property which there exists right to issuance of an order of delivery, or on which an order has been sought, or who conceals it, or removes it from the jurisdiction with intention of defeating enforcement of an order of delivery, or willfully refuses to disclose its location, or, if such property is in his possession, willfully interferes with the officer charged with executing such writ, may be held in civil contempt and shall be guilty of an offense, and if convicted shall be subject to a fine not more than one thousand dollars (\$1000.00) and imprisonment not more than six (6) months, or both; and, in addition shall be liable for double the amount of damage to the property together with a reasonable attorney's fee, which damages and fee shall be deemed basis for a tort claim.

### **Section 10-2-103 Undertaking in Replevin**

The order shall not be issued until plaintiff has executed sufficient sureties approved by the Court, not less than double the value of the property to the effect the plaintiff shall duly prosecute and pay all costs and damages awarded against him, including attorney's fees and, if the property be delivered he will return it to defendant if so adjudged. Where the Tribe or its agents or subdivisions is party plaintiff, an undertaking in replevin shall not be required but a writ shall issue upon complaint. The Court for good cause shown may set a different amount.

### **Section 10-2-104 Replevin Bond - Value**

On application of either party made at the time of executing the replevin bond or re-delivery bond, or later with notice to the adverse party, the Court may hold a hearing to determine the value of the property. If the value determined is different from the complaint, the value determined shall control.

### **Section 10-2-105 Order of Delivery**

The order for delivery of property to plaintiffs shall be addressed and delivered to the Police Chief. It shall state the names of the parties, the Court in which the action is brought, and command the Police Chief to take the property, and deliver it to plaintiff and to make return of the order.

### **Section 10-2-106 Order Returnable**

The return day of the order of delivery, when issued at commencement shall be the same as the summons; when issued afterwards, it shall be ten days after it is issued.

### **Section 10-2-107 Execution of Order**

The Police Chief shall execute the order. He shall deliver a copy of the order to the person charged with unlawful detainer or leave such copy at his usual place of residence, or place such property was seized.

### **Section 10-2-108 Re-delivery on Bond**

If, within three working days after service of the order, there is executed sufficient sureties of the defendant, approved by the Court the defendant will deliver the property to plaintiff, if adjudged, and will pay all costs and damages awarded against him, the Police Chief shall return the property to defendant. If not given within three working days after service, the Police Chief shall deliver the property to the plaintiff.

### **Section 10-2-109 Exception to Sureties**

Any party may except to the sufficiency of the sureties. Such exception shall be in writing and filed. Upon hearing, the Court shall make such order to safeguard the rights of the parties.

### **Section 10-2-110 Proceedings on Failure to Prosecute Action**

If the property has been delivered to the plaintiff, and judgment rendered against him, or his action dismissed, or if he fail to prosecute to final judgment, the Court shall, on application of defendant inquire into the right of property, and right of possession of defendant.

### **Section 10-2-111 Judgment – Damages – Attorney Fees**

Judgment for the plaintiff may be for possession, or for recovery value when delivery cannot be had, and damages. If the property has been delivered to plaintiff, the defendant may claim a return or value of the property, when a return cannot be had, and damages. The judgment rendered in favor of the prevailing party may include a reasonable attorney fee.

### **Section 10-2-112 Officer May Break Into Buildings**

The Police Chief or other enforcement officer, in execution delivery order may break open any building or enclosure in which property claimed, or is concealed upon probable cause but not until refused entrance and delivery after having made a demand, from the person having charge.

### **Section 10-2-113 Compelling Delivery by Attachment**

The Court may for good cause shown, compel the delivery of property to the officer or party entitled thereto by attachment, and may examine either party as to the possession or control. Such authority shall only be exercised in aid of the foregoing provisions.

### **Section 10-2-114 Improper Issue of Order of Delivery**

Any order for the delivery of property issued without the affidavit and undertaking required, shall be set aside and plaintiff shall be liable in damages to the party injured.

### **Section 10-2-115 Joinder of Cause of Action for Debt – Stay of Judgment**

In any action for replevin the plaintiff may join with the claim a claim founded on debt owing to plaintiff if the debt is secured by a lien upon the property sought to be recovered. The execution of the judgment shall be stayed pending sale of the property and determination of the amount of debt remaining unpaid after the application of the proceeds.

## **CHAPTER THREE ATTACHMENT**

### **Section 10-3-101 Grounds for Attachment**

The plaintiff in a civil action for recovery of money may, at or after commencement have an attachment against the property of the defendant, upon proof of any following grounds:

- (A) When the defendant, or one of several defendants, is a foreign corporation, or a nonresident of Tribal jurisdiction (no order will be issued for any claim other than a debt or demand arising upon contract, judgment or decree, unless the claim arose wholly within Tribal jurisdiction), or
- (B) When defendant has absconded with intention to defraud creditors, or
- (C) Has left Tribal jurisdiction to avoid service of summons, or
- (D) Conceals himself that a summons cannot be served, or
- (E) Is about to remove property, out of the jurisdiction with the intent to defraud creditors, or
- (F) Is about to convert property into money, for the purpose of placing it beyond the reach of creditors, or
- (G) Has property or rights in action, which they conceal, or
- (H) Has assigned, removed or disposed of, or about to dispose of property, with intent to defraud, hinder or delay creditors, or

- (I) Fraudulently contracted the debt, or fraudulently incurred the liability or obligations for which the suit has been brought, or
- (J) Where damages are for injuries arising from the commission of a criminal offense, or
- (K) When the debtor has failed to pay for any thing delivered, which they were bound to pay upon delivery, or
- (L) When the action is brought by the Tribe, or officers, agents, or political agencies for collection of any Tribal tax, levy, charge, fee, assessment, rental, or debt arising in contract or by statute and owed to the Tribe.

### **Section 10-3-102 Attachment Affidavit**

An order of attachment may be issued when:

- (A) A civil complaint is filed for an order of attachment which states:
  - (1) The nature of plaintiff's claim
  - (2) That it is just
  - (3) The amount which plaintiff ought to recover, and,
  - (4) The grounds for an attachment.
- (B) The application must be verified by plaintiff, or, agent or attorney.
- (C) The defendant has been served with notice and they may object within five (5) days. Plaintiff's application shall be attached and served with the notice, and the notice and application may be served with the summons.
- (D) If no objection is filed within five (5) days, no hearing is necessary and the clerk may issue the order. If an objection is filed, the Court shall set the matter with notice to the adverse party. Before an order is issued, the Plaintiff must execute an undertaking. The Tribe and its agents shall not be required to execute an undertaking.
- (E) If the Court finds the defendant cannot be given notice although a reasonable effort was made, the Court may issue the order. The defendant may subsequently move to have the attachment vacated.

### **Section 10-3-103 Attachment Bonds**

The attachment bond shall be in such form and amount, as the Court directs, and shall guarantee payment of all damages, costs, and attorney fee's which result from a wrongful attachment. No bond shall be required of the Tribe.

**Section 10-3-104 Order of Attachment**

The order shall be directed and delivered to the Police Chief. It shall require them to attach lands, tenements, goods, chattels, stocks, rights, credits, moneys and effects of defendant within the Tribal jurisdiction not exempt by law stated in the order.

**Section 10-3-105 When Returnable**

The return day of the order when issued at commencement shall be the same as that of the summons, and otherwise within twenty days of issuance.

**Section 10-3-106 Order of Execution**

Where there are several orders of attachment against the defendant, they shall be executed in the order in which they are received.

**Section 10-3-107 Execution of Attachment Order**

The order of attachment shall be executed without delay. The Police Chief shall go to the place where defendant's property may be found, and attach said property and the officer shall make an inventory and appraisal of all property attached which shall be signed and returned with the order, leaving a copy with the person or in the place where the property was seized.

**Section 10-3-108 Service of Order**

- (A) When the property attached is real property, the officer shall leave a copy with the occupant, or, shall be posted in a conspicuous place. Where it is personal property, he shall take such into his custody.
- (B) When the property attached is real property, third parties shall not be affected until a copy of the attachment order and the legal description of the real property shall be filed in the land tract book maintained by the Court Clerk.

**Section 10-3-109 Re-delivery on Bond**

The Police Chief shall re-deliver the property upon the execution by the Defendant of an undertaking to the plaintiff, with sufficient sureties, to answer the judgment of the Court.

**Section 10-3-110 through 10-3-140 Reserved**

## **CHAPTER FOUR GARNISHMENT**

RESERVED FOR FUTURE PROVISIONS RELATING TO GARNISHMENT

## **CHAPTER FIVE PROVISIONS RELATING TO ATTACHMENT AND GARNISHMENT**

RESERVED FOR FUTURE PROVISIONS RELATING TO BOTH  
ATTACHMENT AND GARNISHMENT

## **CHAPTER SIX RECEIVERS**

### **Section 10-6-101 Appointment of Receiver**

A receiver may be appointed by any Judge or Justice:

- (A) In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property to his claim, or between partners or others jointly owning or interest in any property or fund, on application of the plaintiff, or of any party whose right or interest in the property or fund, or the proceeds, is probable, and where it is shown the property or fund is in danger of being lost, removed or materially injured.
- (B) In an action by a mortgagee for the foreclosure and sale of the mortgaged property, where it appears the mortgaged property is in danger of being lost, removed or materially injured, or that the condition of the mortgage has not been performed, and the property is probably insufficient to discharge the mortgage debt.
- (C) After judgment, to carry the judgment into effect.
- (D) After judgment, to dispose of the property accordingly or preserve it during an appeal, or in proceeding in aid of execution, when an execution has been returned unsatisfied, or when judgment debtor refuses to apply his property in satisfaction of the judgment.
- (E) In cases provided and by special statutes, when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights.
- (F) In all cases where receivers should be appointed to protect the property and rights of the parties in dispute.

### **Section 10-6-102 Person Ineligible**

No party, or attorney, or person interested in an action, shall be appointed except by consent of all parties.

### **Section 10-6-103 Oath and Bond**

The receiver must be sworn to perform duties faithfully, and with sureties, approved by the Court, execute an undertaking to such person and in such sum as the Court shall direct, they will faithfully discharge the duties of receiver and obey Court orders.

### **Section 10-6-104 Powers of Receiver**

The receiver has under Court control power to bring and defend actions in their own name, as receiver; to take and keep possession of the property, to receive rents, to collect debts, to compound for and compromise the same, to make transfers, and to act as the Courts authorize.

### **Section 10-6-105 Investment of Funds**

A receiver may invest funds by Court order when the principal and interest are guaranteed Federally and may be withdrawn within a reasonable time.

### **Section 10-6-106 Disposition of Property Litigated**

- (A) When, a person, admits they possess or control any non-exempt money or thing capable of delivery, which, is held as trustee or which belongs or is due to a party, the Court may order it deposited or delivered to the party, with or without security, as the court directs.
- (B) Any person paying or delivering money or property into the Court, shall not be liable for collection or return of the property or money.
- (C) The party may be ordered to deposit or make payment into Court, which may be enforced by contempt, or upon application, may order the person holding property to be served with summons as a special defendant determine the nature and amount of property in their possession subject to payment into Court and ordering said person to pay or deliver the property. After payment has been made, the person shall be dismissed.
- (D) Where judgment has been obtained it is not necessary to formally appoint a receiver the Court Clerk shall act as receiver and shall pay money or deliver property to the person entitled.

### **Section 10-6-107 Punishment for Disobedience of Court**

Whenever, the Court shall have ordered the deposit or delivery of money or thing, and the order is disobeyed, the Court, besides punishing for contempt, may order the Police Chief to take the money, or thing, and deposit or deliver it.

### **Section 10-6-108 Vacation of Appointment by Supreme Court**

In appealed cases in which a receiver has been appointed, or refused, by any Justice, the party aggrieved may, within ten (10) days file a motion to vacate the order and for a hearing before a quorum at a time and place as the Justices determine. Pending final determination, if the order was one of appointment, the moving party shall give bond with sufficient sureties, in an amount fixed by the Court and the authority of such receiver shall be suspended and if such receiver shall have taken possession of any property it shall be surrendered to the owner.

## **CHAPTER SEVEN EXECUTION**

### **Section 10-7-101 Executions - Defined**

Executions shall be deemed process of the Court, and shall be issued by the clerk, and directed to the Police Chief.

### **Section 10-7-102 Kinds of Executions**

Executions are of three kinds:

- (A) Against the property of the judgment debtor.
- (B) For the delivery of possession of real or personal property, with damages for withholding the same, and cost.
- (C) Executions in special cases.

### **Section 10-7-103 Property Subject to Levy**

Lands, tenements, goods and chattels, not exempt by law shall be subject to the payment of debts, and shall be liable to be taken on execution and sold.

### **Section 10-7-104 Property Bound After Seizure**

All real estate not bound by the lien of the judgment, as well as goods and chattels of the debtor, shall be bound from the time they are seized.

### **Section 10-7-105 Execution Must Be Issued Within Three Years**

If execution is not issued and filed within three (3) years after any judgment in Tribal Court or if three (3) years have intervened between the date the last execution on such judgment was filed and the date writ of execution was filed the judgment shall become unenforceable, and shall cease to operate as a lien. This section shall not apply to judgments in favor of the Tribe its subdivisions or agents.

### **Section 10-7-106 Priority Among Property**

The writ of execution against the property of the judgment debtor, shall command the officer that the goods and chattels of debtor be made money specified in the writ; and if no goods and chattels, they cause the same non-trust interest in lands and tenements of the debtor; and the amount of the debt, damages and costs, for which the judgment is entered.

### **Section 10-7-107 Priority Among Executions**

When two or more writs of execution against the same debtor shall be delivered to the officer prior to the date of sale no preference shall be given to either. If insufficient money is made, the amount made shall be distributed to the several creditors in proportion to the amount of their respective demands, provided nothing shall be construed to affect any preferable lien.

### **Section 10-7-108 Levy By Priority**

The officer shall proceed to levy upon the goods and chattels of the debtor; if no goods and chattels can be found, the officer shall endorse on the writ "no goods," and levy the writ of execution upon any interests in lands and tenements of the debtor, and if any of the interests in lands and tenements shall be encumbered by mortgage or liens, such lands and tenements may be levied upon appraised and sold, subject to such liens, which shall be stated in the appraisalment.

### **Section 10-7-109 Who Makes Levy**

It shall be unlawful for anyone to levy an attachment or execution within Tribal jurisdiction who is not a bona fide Tribal officer.

### **Section 10-7-110 When Levy Void**

Any attachment or execution issued to, or levied by anyone other than a Tribal Police officer shall be void and of no effect and the Clerk or other person issuing same, or officer or other person levying same, together with their bondsmen shall be liable for any damage.

### **Section 10-7-111 Penalty for Unlawful Levy**

Anyone violating Section 940 shall be punished by a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not to exceed thirty (30) days or both.

### **Section 10-7-112 Levy on Property Claimed by Third Person**

If the officer shall levy on any goods and chattels claimed by any person other than the defendant, or be requested by plaintiff to do so, the officer may require the plaintiff to give him securities to pay all costs and damages they may sustain by reason of the detention or sale, and until securities are be given, the officer may refuse to proceed.

### **Section 10-7-113 Re-Delivery to Defendant**

In cases where any officer shall, by an execution, levy upon any goods and chattels in their possession which remain unsold, for reasonable cause, the officer may, for own security, take the defendant's security, that the property shall be delivered to the officer holding an execution for sale at the time and place appointed either by notice, to defendant or by publication in a legal newspaper, naming the day and place of sale. If defendant fails to deliver or to pay to the officer the full value of goods and chattels, or amount of debt and costs, the undertaking, given may be proceeded on as in other cases.

### **Section 10-7-114 Notice of Sale of Chattels**

The officer sale shall give public notice of the time and place of sale, at least ten days prior. The notice shall be given by publication in some newspaper or advertisements in five public places in the jurisdiction. Two advertisements shall be put up in the township where the sale is to be held. Where goods and chattels cannot be sold for want of bidders, the officer making return shall attach an inventory of such goods and chattels, and the plaintiff may obtain another writ of execution, directing the sale but such goods and chattels shall not be sold, unless the time and place of sale be advertised.

### **Section 10-7-115 Further Levy When Property Taken Insufficient**

When any writ directing the sale of property previously taken the officer issuing shall, at the request of the plaintiff add a command if the property remaining not sold shall, in his opinion, be insufficient to satisfy the judgment, he shall levy the same upon lands and tenements, goods and chattels, or either, as the law permit, being the property of the judgment debtor, sufficient to satisfy the debt.

### **Section 10-7-116 Filing and Indexing of Execution**

- (A) When a general execution is issued and given to the Police Chief for levy, a certified copy of such execution shall be filed and shall be indexed the same as judgments.
- (B) If a general or special execution is levied upon an interest in lands and tenements, the Police Chief shall endorse on the face of the writ the legal description and shall have three disinterested persons who have taken an oath to impartially appraise the property and their signed estimate of the real value of said property.

- (C) To extend a judgment lien beyond the initial or any subsequent statutory period, prior to expiration, a certified copy of a general execution shall be filed and indexed the same as judgments.

### **Section 10-7-117 Waiver of Appraisement**

It is against the public policy of the Tribe to allow enforcement of execution upon realty without appraisal, and the words “appraisement waived” or other words of similar import, inserted in any deed, mortgages, bonds, notes, bill or written contract. They shall be of no effect whatsoever and an appraisal shall be ordered.

### **Section 10-7-118 Return of Appraisement**

The officer receiving the return of appraisement shall deposit a copy with the Clerk, advertise and sell such property.

### **Section 10-7-119 When Lien Restricted**

If, upon return, two thirds of the appraised value of non-trust interest in lands and tenements, is sufficient to satisfy the execution, with costs, the judgment shall not operate as a lien on the residue of the debtor’s estate, to the prejudice of any other judgment creditor; but no property shall be sold for less than two-thirds (2/3) of the value. Nothing shall extend to affect the sale of lands by the Tribe but all lands, the corporation or associations indebted to the Tribe for any debt or taxes, or in any other manner, shall be sold without valuation for the discharge of such debt or taxes.

### **Section 10-7-120 Notice of Sale of Realty**

Any non-trust interest in lands and tenements taken shall not be sold until the officer causes public notice of the time and place of sale given by publication for two (2) successive weeks in a legal newspaper and by putting an advertisement upon the Court house door or other public bulletin board within a common area of the Court house and in five (5) other public places in the jurisdiction, two (2) of which shall be in the township where such lands and tenements lie. Such sale shall not be held less than thirty (30) days after the date of the first publication of the notice.

All sales made without such advertisement shall be set aside on motion by the Court.

### **Section 10-7-121 Confirmation of Sale**

The Court, upon return of any writ of execution, shall, determine if the sale has been made in conformity with law. The Court shall direct the clerk to make a journal entry, the Court is satisfied and an order the officer make the purchaser a deed for such interest in lands and tenements; and the officer, shall deposit the purchase money with the clerk. The clerk shall pay the person entitled.

### **Section 10-7-122 Police Chief's Deed**

The Police Chief or other officer upon writs of execution shall sell the lands and tenements, shall make to the purchaser as good and sufficient deed of conveyance as the person against whom such writs of execution were issued could have made at or after they became liable to the judgment. The deed shall be sufficient evidence of the legality of such sale, and shall vest in the purchaser as good and as perfect an estate as was vested in the party at, or after, such lands and tenements became liable to the satisfaction of the judgment; and such deed of conveyance, shall recite the execution or the substance, parties, the amount and date of each judgment. The conveyance shall be acknowledged and recorded as is provided by law, to perfect the conveyance of such interests in real estate.

### **Section 10-7-123 Advance of Printer's Fees**

The officer is charged with the duty of selling may refuse to publish a notice of sale until the benefiting party shall pay the printer.

### **Section 10-7-124 Demand for Printing Fees**

Before any officer shall be excused from giving the notification he shall demand the printer fees.

### **Section 10-7-125 Place of Sale**

All sales of interests in lands or tenements under execution shall be held at the Tribal Court house unless some other place within the Tribe is designated. No Tribal Policeman or other officer making the sale of property, nor any appraiser shall either directly or indirectly purchase property and every purchase so made shall be considered fraudulent and void.

### **Section 10-7-126 Other Executions of Realty Not Sold**

If lands or tenements, levied on are not sold upon one execution, other executions may be issued.

### **Section 10-7-127 Levy on Realty Under Several Execution**

In all cases where two or more executions are delivered necessary to levy on real estate and the judgment creditors require a levy on separate parcels of the real property of the judgment debtor, the officer will levy on separate parcels when, in the opinion of the appraisers, the property will not be sufficient, at two-thirds (2/3) of its appraised value, to satisfy all the executions. Each part shall be levied on, to satisfy each execution, as will bear the same proportion in value to the whole, as the amount due to the execution bears to the amount of all the executions chargeable, as near as may be according to the appraised value of each separate parcel.

### **Section 10-7-128 Deed by Successor of Officer Making Sale**

If the Tribal Police Chief or other officer is unable to make a deed of conveyance any succeeding Tribal Police Chief or officer, on receiving a certificate from the Court issued for the sale of non-trust interest in lands and tenements, signed by the clerk, may execute a deed of conveyance. Such deed shall be as good and valid in law and have the same effect as if the Tribal Police Chief or other officer who made the sale had executed the same.

### **Section 10-7-129 Payment to Defendant of Overplus After Sale**

If there is money leftover after satisfaction of writs of execution, with interest and costs, the Tribal Police Chief or other officer shall, on demand, pay the balance to the defendant.

### **Section 10-7-130 Reversal of Judgment After Sale of Interest in Land**

If any judgments, in which any non-trust interests in land or tenements are sold, is reversed, reversal shall not defeat or affect the title of the purchaser or purchasers; but, restitution shall be made by judgment creditors.

### **Section 10-7-131 Execution on Judgment in Favor of Tribe**

In all civil actions where the Tribe recovers judgment, and an execution has issued, the Tribe may bid on, and buy the property. When bought by the Tribe, the property may be sold for the Tribe. At such execution sale the Tribal attorney may bid for the Tribe.

In disposing of personal property, the officer may sell the property by executing a good and sufficient Bill of Sale, attested by the Secretary of the Tribe. In disposing of any non-trust interest in real property, the officer may execute in the name of the Tribe a good and sufficient deed, attested by the Secretary of the Tribe. Provided, in no event shall any sale be valid for any amount less than the amount for which said property was originally bid in by the Tribe. The funds obtained shall be placed in the fund for which the judgment was obtained, or in the Tribal land purchases fund.

### **Section 10-7-132 Reappraisal Where Realty Twice Advertised for Sale**

Where a non-trust interest in real estate has been taken on execution, appraised twice, advertised and offered for sale, and is unsold, the Court on motion of plaintiff, may order a new appraisal or order a new execution to issue.

### **Section 10-7-133 Return of Execution**

The Police Chief or officer, to whom any writ of execution shall be directed, shall return such writ to the Court within ninety (90) days.

### **Section 10-7-134 Principal and Surety**

Where judgment is rendered in which persons are jointly and severally bound, and it is shown, one or more signed as surety or bail, the clerk shall certify which of the defendants is the principal debtor, and which are sureties or bail. The clerk shall issue execution to cause the sale of the property of the principal debtor. If insufficient, they cause the sale of the property of the surety or bail. The property, both personal and real, of the principal debtor, within the jurisdiction shall be exhausted before any property of the surety or bail shall be taken.

### **Section 10-7-135 Hearing on Assets**

The Court, upon motion of the judgment creditor, may order the judgment debtor to appear and answer concerning his property subject to execution to satisfy judgment. The order to appear shall be served as a summons and may contain an order prohibiting the conveyance of any non-exempt property, and may order the production of any books, records, documents, or papers relating to the judgment creditors property. Such order may be enforced by contempt proceedings.

### **Section 10-7-136 through 10-7-140 Reserved**

## **CHAPTER EIGHT CIVIL REMEDIAL FORFEITURE CODE**

### **SECTION ONE**

### **Section 10-8-101 Purpose and Authority**

This Chapter is enacted under the authority of the Tribal Constitution, Article VII, Section 1 (d), (g) and (k), in order to provide for the civil remedial forfeitures of money penalties and property for violation of tribal civil regulatory or criminal Tribal Code provisions. The remedial measures of this Chapter are designed and intended to encourage compliance with tribal law and to compensate the Tribe for damage to the peace, security, welfare, or resources of the Tribe.

### **Section 10-8-102 Definitions**

As used in this Chapter:

- (A) "Crime" (or "criminal") means (or refers to) an act or omission forbidden by a Tribal Code provision which is punishable upon conviction by imprisonment, fine not designated as a civil fine or civil remedial forfeiture, or other penal discipline.
- (B) "Enforcing officer" means federal enforcement agents, Tribal law enforcement officers, and other persons specifically authorized by Tribal law or a cross-deputization or mutual aid agreement with the Tribe to enforce Tribal law.

- (C) "Indian" means any person of Native American ancestry who is subject to federal criminal jurisdiction under the Major Crimes Act, 18 U.S.C. 1153.
- (D) "Non-Indian" means any person who is not an Indian as defined in sub. 3.
- (E) "Tribal Jurisdiction" means all of Indian Country as defined in 18 U.S.C. § 1151, whether within or without the Tribal boundaries that are subject to the jurisdiction of the Tribe.

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.

- (F) "Tribe" (or "Tribal") means (or refers to) Citizen Potawatomi Nation.
- (G) "Tribal Court" means the Citizen Potawatomi Nation, as established by Tribal Constitution and Code.

### **Section 10-8-103 Tribal Ordinances Affected**

- (A) Whenever any Tribal Code provision is covered by a civil fine or civil remedial money penalty or the civil remedial forfeiture of any property for its breach, the Tribe shall proceed against such person or property as provided in this Chapter, unless a different procedure is specified for that provision.
- (B) The general provisions of other chapters of the Tribal Code, or of any rules of court promulgated by the Tribal Court to govern general procedures in Tribal Court, shall apply to proceedings instituted under this Chapter, to the extent such provisions are not inconsistent with the provisions of this Chapter.

### **Section 10-8-104 Application to Non-Indians**

Any act or omission which constitutes a crime if committed by an Indian shall constitute a civil infraction subject to a civil remedial money penalty under this Chapter if committed by a non-Indian or any other person over whom the Tribe is not permitted by federal law to exercise criminal jurisdiction.

### **Section 10-8-105 Property Used in Commission of Crime**

Any property used in the commission of any act which constitutes a crime if committed by an Indian shall be subject to civil remedial forfeiture of property under Subchapter III regardless of whether such property is owned by or was used by a non-Indian.

### **Section 10-8-106 Parties to a Violation**

Any person who is concerned in the commission of a violation remediable under this Chapter is a principal and may be adjudged to have committed the violation although such person did not directly commit it and although the person who did directly do so has not been subjected to a criminal prosecution or the remedial provisions of this Chapter. A person is concerned in the commission of a violation if such person:

- (A) Directly commits the violation; or
- (B) Aids and abets the commission of a violation; or
- (C) Is party to as conspiracy with one or more others to commit the violation or advises, hires, counsels, or otherwise procures another to commit the violation.

### **Section 10-8-107 Jurisdiction**

The Tribal Court shall have jurisdiction overt proceedings instituted under this Chapter.

### **Section 10-8-108 Party Plaintiff**

Any proceeding instituted under this Chapter shall be brought in the name of the Tribe, as plaintiff.

### **Section 10-8-109 Effective Date**

This Chapter shall take effect immediately upon its enactment.

### **Section 10-8-110 Implied Consent**

Entry into the Tribal jurisdiction without the permission of the Tribe is prohibited. Such permission when given is expressly conditioned upon the consent of the person entering the jurisdiction of the Tribe for purposes of enforcing this Chapter and any other Tribal Code provision enforced by means of this Chapter. Entry into the Tribal jurisdiction made in any manner other than in conformity with this Chapter or any Tribal Code provision enforced by means of this Chapter is made without consent. Any person who enters into the Tribal jurisdiction shall be deemed to have given consent to the jurisdiction of the Tribe for purposes of enforcing this Chapter.

### **Section 10-8-111 Severability**

If any section, provision or portion of this Chapter is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

### **Section 10-8-112 Additional Remedies**

The civil remedial forfeiture remedies provided for in this Chapter are not mutually exclusive remedies of the Tribe for violation of its Tribal law. Nothing in this Chapter shall restrict or curtail the right of the Tribe to prosecute or seek the criminal prosecution of any defendant or owner or to institute a civil action for damages in any court against a defendant or owner. In addition to the civil remedies provided in this Chapter, the Tribal Court may order a defendant or owner to perform or refrain from performing such acts as may be necessary fully to protect the Tribe, its members, its property, or its natural resources. The Tribal Court may order abatement of a nuisance, restoration of a natural resource, or other appropriate action designed to eliminate or minimize damage caused by a defendant or owner.

## **SECTION TWO CIVIL REMEDIAL MONEY PENALTIES**

### **Section 10-8-201 Institution of Proceedings; Citation**

Proceedings for the recovery of a civil remedial money penalty shall be instituted by the issuance of a citation by an enforcing officer. Whenever an officer has reason to believe that a person subject to tribal authority has committed a breach of a Tribal Code provision that is subject to a civil remedial money penalty, the officer shall issue a citation to that person and file a copy with the Tribal Court. A citation may be served personally or by ordinary mail.

### **Section 10-8-202 Notice to Alleged Violator; Jurisdiction**

The issuance of a citation by an enforcing officer is sufficient notice to the alleged violator that he is charged with a civil infraction subject to a civil remedial money penalty, and is adequate process to give the Tribal Court jurisdiction over the person allegedly committing the violation upon the filing of the citation with the Tribal Court.

### **Section 10-8-203 Citation Contents**

- (A) It must appear on the face of the citation that there is a reasonable basis to believe that a breach of a Tribal Code provision has been committed and that the defendant charged has committed the breach.
- (B) The citation form shall contain the following:
  - (1) The name of the person to whom the citation was issued, together with the person's age and address, if available;
  - (2) The Tribal permit or license number of the defendant, if applicable;
  - (3) The name of the issuing officer;
  - (4) The breach alleged, the time and place of occurrence, a statement that the defendant committed the breach, the Tribal Code provision

charged, and a description of the breach in language which can be easily understood;

- (5) The maximum civil remedial money penalty for which the defendant might be found liable;
- (6) A date, time and place for a Tribal Court appearance, and a notice to appear;
- (7) Provision for a deposit and stipulation of default in lieu of court Appearance;
- (8) Notice that if the defendant fails to appear at the time fixed in the citation, he will be defaulted and judgment entered in an amount up to the maximum penalty;
- (9) Notice that if the defendant makes a deposit and stipulation of default, judgment will be entered in the amount of the deposit; and
- (10) Any other pertinent information.

#### **Section 10-8-204 Stipulation of Default; Deposit**

- (A) A defendant to whom a citation is issued may make a deposit and stipulation of default in lieu of a court appearance at any time prior to the date set for appearance before the Tribal Court.
- (B) The amount of the deposit shall be determined by an enforcing officer at the time of issuance of the citation, but shall not exceed the maximum penalty established in the Tribal code provision charged or by this Chapter or set forth in a deposit schedule adopted by the Tribal Court under its rulemaking authority.
- (C) By signing the stipulation of default, the defendant consents to the entry of judgment against him or her for a penalty not to exceed the amount of the deposit.
- (D) The Clerk of Tribal Court or the enforcing officer issuing the citation shall accept the deposit and stipulation of default and shall prepare a receipt showing the purpose for which the deposit was made, which shall be transmitted to the defendant. In the event that acceptance of the deposit and stipulation is made by an enforcing officer, the officer shall file the stipulation of default and a copy of the receipt with the Clerk of Tribal Court.

#### **Section 10-8-205 Burden of Proof**

In all actions under this Subchapter, the Tribe shall have the burden of showing by a preponderance of the evidence that the defendant breached the Tribal code provision charged in

the citation. The Tribe shall not, however, be required to show that the defendant intended to breach the Tribal code provision charged.

### **Section 10-8-206 Default**

Upon failure of the defendant to appear on the date indicated on the citation, an entry of default shall be made by the Clerk of Tribal Court and the Tribal Court may proceed with the hearing and enter judgment under this Subchapter. If the citation was served by ordinary mail, proof of receipt by the defendant shall be required before default may be entered.

### **Section 10-8-207 Judgment**

If upon default or after the presentation of all the evidence the defendant is found by a preponderance of the evidence to have breached the Tribal code provision charged, the Tribal Court shall enter judgment against the defendant and in favor of the Tribe for a monetary amount not to exceed the maximum civil remedial money penalty provided for the offense or, if a deposit has been made by the defendant, for an amount not to exceed the amount of the deposit.

### **Section 10-8-208 Amount of Penalty**

The maximum civil remedial money penalty which may be imposed for a violation of a Tribal code provision under this Subchapter shall be the lesser of:

- (A) Five Thousand Dollars (\$5,000.00); or
- (B) The maximum amount provided in the Tribal Code provision violated, if an amount is specified; or
- (C) In the case of a civil infraction by a non-Indian subject to 84.104, the maximum criminal fine imposed by the Tribal Code provision violated, if such an amount is specified.

### **Section 10-8-209 Enforcement of Judgment**

All civil remedies are available to enforce the judgment of the Tribal Court, including the power of civil contempt. A judgment shall be a lien upon any available property of the defendant which is located within the jurisdiction of the Tribal Court. When necessary, the Tribe may bring suit in any court on the judgment against the defendant or his property located beyond the jurisdiction of the Tribal Court.

### **Section 10-8-210 Monies Tendered to the Tribal Court**

Deposits and money paid on judgments rendered under this Subchapter shall be tendered to the Clerk of Tribal Court. The Clerk shall tender such sums to the Tribal accounting department for deposit in the general fund of the Tribe or for such other disposition as may be directed by a provision of the Tribal Code.

## **SECTION THREE CIVIL REMEDIAL FORFEITURE OF PROPERTY**

### **Section 10-8-301 Institution of Proceedings; Complaint**

Proceedings for the civil remedial forfeiture of property shall be instituted by the filing of a complaint in rem against the property in Tribal Court by an enforcing officer. A complaint shall be filed whenever such officer has a reasonable basis to believe that a Tribal Code provision has been breached and that the property is forfeitable under Tribal law.

### **Section 10-8-302 Contents of Complaint**

- (A) It must appear on the face of the complaint that there is a reasonable basis to believe that a Tribal Code provision has been breached and that the property is forfeitable under that provision or under another provision of the Tribal Code.
- (B) The complaint shall contain the following:
  - (1) A description of the property against which proceedings are instituted;
  - (2) The Tribal Code provision allegedly breached;
  - (3) A description of the breach in language which can be easily understood;
  - (4) The name, address, and other pertinent information about the owner of the property, if known, or a statement that the owner of the property is unknown;
  - (5) A request for an order from the Tribal Court to seize the property; and
  - (6) The name and signature of the complaining enforcing officer.

### **Section 10-8-303 Service of Complaint**

- (A) If the owner of the property is identified in the complaint, the complaint and a notice to appear at a hearing on an order to seize shall be served on the owner as provided for service of civil complaints.
- (B) If the owner of the property is not identified in the complaint or his present whereabouts is unknown and so recited in the complaint, service shall be made by posting the complaint and notice to appear at the Tribal Court, the central tribal office and by publication once in a newspaper of general circulation on the Tribe. An affidavit of publication and posting shall be filed with the Tribal Court.

### **Section 10-8-304 Seizure of Property Without Order**

- (A) Property may be seized by an enforcing officer prior to the filing of a complaint and issuance of an order to seize if one or more of the following circumstances exist:
- (1) A Tribal Code provision authorizes the immediate seizure of the property;
  - (2) The property seized presents a danger to persons, property, or a natural resource of the Tribe;
  - (3) The enforcing officer has a reasonable basis to believe that without immediate seizure, the property will be removed from the jurisdiction of the Tribal Court; or
  - (4) The enforcing officer has a reasonable basis to believe that the property was used in the commission of an act which, if committed by an Indian, would constitute a crime within the jurisdiction of the Tribe.
- (B) A receipt describing the property seized shall be issued to the person in possession of the property at the time of the seizure, if such person is present.

### **Section 10-8-305 Seizure of Property With Order**

Any property alleged to be subject to civil remedial forfeiture may be seized under an order to seize issued by the Tribal Court. Any and all property so seized or seized without order as provided, shall be held by the Tribal Court pending disposition of the complaint or until a bond has been posted with the Tribal Court as provided.

### **Section 10-8-306 Bond for Property Seized**

The Tribal Court may release property seized to the owner upon the posting of bond with the Tribal Court in an amount and under the conditions with the trial judge determines are necessary to protect the interests of the Tribe. In no event shall the amount of the bond exceed the fair market value of the property seized. Upon the posting of a proper bond, the bond shall be available to be levied against if the owner does not return the property to the custody of the Tribal Court in proper condition upon a determination of the Tribal Court that the property is forfeited.

### **Section 10-8-307 Hearing; Time**

When property has been seized prior to the issuance of an order to seize, a hearing on the order to seize shall be held within five (5) working days after the seizure. If the hearing is not held within that time, the property seized shall be immediately returned to the owner, if the owner is known. The hearing on the order to seize requested in the complaint filed with the Tribal Court shall be held within thirty (30) days of the filing of the complaint.

### **Section 10-8-308 Hearing Procedure**

- (A) At the hearing on the order to seize, the Tribe shall have the burden of showing that there is a reasonable basis to believe that:
  - (1) The property is subject to civil remedial forfeiture; and
  - (2) The property is within the jurisdiction of the Tribal Court.
- (B) The parties may present evidence through the testimony of witnesses. Affidavits will be accepted in lieu of testimony if, in the trial judge's discretion, it is determined that the interest of justice would be best served by doing so.

### **Section 10-8-309 Order to Seize**

- (A) If, after the hearing, the trial judge finds that there is a reasonable basis to believe that the property is subject to civil remedial forfeiture under the Tribal Code provision alleged in the complaint, and that the property is within the jurisdiction of the Tribal Court, the trial judge shall issue an order to seize, directing an enforcing officer to seize the property and hold it pending disposition of the complaint.
- (B) If, after hearing, the trial judge finds that there is not a reasonable basis to believe that the property is subject to civil remedial forfeiture under the Tribal Code provision alleged, or that the property is within the jurisdiction of the Tribal Court, the trial judge shall dismiss the complaint and, if property was seized prior to the hearing, order the property immediately released.

### **Section 10-8-310 Contents of an Order to Seize**

An order to seize shall contain the following:

- (A) A description of the property subject to the order;
- (B) The date of filing of the complaint for forfeiture, and the name and department of the complaining officer;
- (C) A finding that the property is within the jurisdiction of the Tribal Court;
- (D) A finding that there is a reasonable basis to believe that the property is subject to a civil remedial forfeiture, a brief factual narration of the grounds for the finding, and citation to the Tribal Code provision allegedly breached;
- (E) Notice of the date, time and place of trial; and

- (F) Notice that the property may be released by the posting of a proper bond. The order to seize shall be served as provided in 303.

### **Section 10-8-311 Existence of Security Interest in Seized Property**

The enforcing officer shall make a reasonable effort prior to the hearing on the order to seize to ascertain whether a perfected security interest exists in the property and, if one does exist, shall give notice to the secured party of any hearing in the case, and shall also give the secured party a minimum of fifteen (15) days notice of the time and place of any sale conducted under § 10-7-113.

### **Section 10-8-312 Trial**

At trial, the Tribe shall have the burden of showing by a preponderance of the evidence that the property is forfeitable under the ordinance Tribal Code provision charged or a provision of this Chapter. If the Tribe fails to meet this burden, the Tribal Court shall dissolve the order to seize, enter judgment awarding title to the property to the owner, and order immediate release of the property or discharge of the bond, whichever is appropriate. If the Tribe meets its burden, the Tribal Court shall dissolve the order to seize, enter judgment awarding title to the property to the Tribe, and place the property in the hands of the Tribe for disposition or, if bond was posted, order the bond forfeited to the Tribe.

### **Section 10-8-313 Property Subject of Forfeiture**

All items forfeited in this section shall be forfeited under the procedures established by this code. Whenever any item is forfeited pursuant to this section, the District Court shall order that such item, money, or monies derived from the sale of such item, be deposited by the Citizen Potawatomi Nation Court Administrator in a revolving fund, with said funds of any forfeiture of items seized to be used for law enforcement and prosecutorial purposes as approved by the Court Administrator.

### **Section 10-8-314 Sale of Perishable Property**

Any perishable property seized under this Subchapter may be sold by an enforcing officer at the highest available price, and the proceeds of such sale shall be tendered to the Tribal Court to await such disposition of the proceeds as the Tribal Court shall direct.

### **Section 10-8-315 Effect on Seizure of Evidence**

Nothing in this Chapter shall affect or limit the power of enforcing officers to execute search warrants or seize and hold property which constitutes evidence in any criminal case. Such property shall not be forfeited, however, except in compliance with this chapter.