

BISHOP PAIUTE TRIBE  
BISHOP PAIUTE RESERVATION

ENFORCEMENT OF CHILD SUPPORT ORDERS/JUDGMENTS

ORDINANCE NO. 2012-03

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**BISHOP PAIUTE TRIBE  
ORDINANCE GOVERNING ENFORCEMENT OF CHILD SUPPORT ORDERS/  
JUDGMENTS', DIRECTED AGAINST THE WAGES DUE TO TRIBAL EMPLOYEES**

**ORDINANCE NO. 2012-03**

**CHAPTER 1 - GENERAL PROVISIONS**

**Section 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 orders/judgments, directed against the wages of a tribal employee that have been issued by another tribe, or a state. Once this Ordinance is adopted by the Bishop Paiute Tribal Council, it shall be within the jurisdiction of the Bishop Paiute Tribal Court.

**Section 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 or judgment issued by any tribal or state 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 judgments, which directs the attachment or withholding of wages of a employee of the Tribe to pay child support payments, whether such order or judgment is labeled or described as a writ of attachment, levy, garnishment, payroll deduction or wage withholding order.
- (d) "Tribal Court" means the Bishop- Paiute Tribal Court established by the Tribe pursuant to tribal law.
- (e) "Native American" means an Indian that is a member of or nonmember of any Indian Tribe whether the Tribe is recognized by the U.S. Federal government or not.

**CHAPTER 2 - WAGE WITHHOLDING ORDERS TO ENFORCE CHILD SUPPORT OBLIGATIONS**

**Section 201. Applicability**

The following procedures shall apply to any wage withholding order directed to the- Tribe for wages due to an employee of the Tribe, and which is issued by either 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 wage withholding order/judgment.

## **Section 202. Verification and Enforcement**

(a) Upon receipt of a wage withholding order issued by either 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 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).

(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 that the individual identified in the Wage Withholding Order is not employed by the Tribe.

## **Section 203. Notice to Affected Employee**

When a wage withholding order meets the requirements of Section 202, 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 Wage Withholding order to be enforced. This notice must be given in writing to the employee within five (5) working days of receipt of the wage withholding order by the payroll department. The notice must include instructions as to the procedure by which the employee may appeal the payroll department's decision to enforce the Wage Withholding Order.

Service on an employee shall be made in one of the following ways:

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

A declaration under penalty of perjury 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 retained by the Tribal payroll department serving notice.

The employee has the right to appeal the amount of money to be deducted (withheld) from each payroll check if a written appeal is filed by the employee with the Tribal Court within five (5) working days of the payroll department serving the employee with a copy of 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 payroll period.

In any event, the wage deductions are not to exceed twenty-five (25%) percent of the employee's disposable wages for anyone pay period.

If the employee does not appeal the wage withholding order within the five (5) working day period as provided hereinabove, the payroll department shall enforce the wage withholding order as presented for the following pay periods. However, an employee may file appeals for future pay periods without prejudice.

#### **Section 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.

#### **Section 205. Notice of Decisions**

The Tribal Court shall notify the Tribal employee of the Court's decision in writing. The Court's decision shall state the amount of the wages of the employee to be withheld. There shall be no appeal of the Tribal Court's decision. A copy of the Tribal Court's decision shall be also sent to the appropriate Tribal payroll department for enforcement.

#### **Section 206. Amendments**

This Ordinance and the procedures promulgated hereunder may be amended or rescinded by the Tribal Council at a duly called regular or special meeting.


#### **Section 207. Sovereign Immunity**

Nothing in this ordinance is a waiver of the sovereign immunity of the Tribe or the Tribal Council or any official, agent or employee of the Tribe while acting in his or her official capacity. The employees and appointees of the Tribe, agents, the member of the Tribal Council, and personnel of the tribal Court are cloaked with the sovereign immunity of the Tribe. No individual named above shall be liable for his or her acts or failure to act under this Ordinance while acting in their lawful official capacity.

**Certification**

We, the undersigned, as the Chairman and Secretary of the Bishop Tribal Council, hereby certify the Bishop Tribal Council, at a duly called meeting which was convened and held on the 20<sup>th</sup> day of Dec., 2013, at the Tribal offices in the State of California adopted the foregoing Ordinance, at which a quorum was present voting 3 FOR, 0 AGAINST, 0 ABSTAINING, with the Tribal Chairman not voting, and that this Ordinance has not been rescinded or amended any way.

ATTEST:



Dale Delgado, Jr., Tribal Chairman

Date 12/20/12

                     s/s Earleen J. Williams

Earleen Williams, Tribal Secretary

Date 01-31-13