

NOTICE

TO ALL INTERESTED PERSONS:

YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING CHANGES IN THE RED CLIFF CODE OF LAWS HAS BEEN PROPOSED BY THE RED CLIFF LEGAL DEPARTMENT TO THE TRIBAL COUNCIL:

ADD **CHAPTER 57 – UNCLAIMED FUNDS**, WHICH SHALL READ AS FOLLOWS:

CHAPTER 57 – UNCLAIMED FUNDS

57.1 SECTION 1: DEFINITIONS

- 57.1.1** “Accounting department” means the Department of Financial Services for the Red Cliff Band of Lake Superior Chippewa.
- 57.1.2** “Apparent owner” means the person whose name appears on the records of the holder as the person entitled to the unclaimed funds.
- 57.1.3** “Credit balance” means an account balance in the customer’s favor.
- 57.1.4** “Holder” means a person, department or organization that is in possession of unclaimed funds belonging to another.
- 57.1.5** “Last known address” means the location of the apparent owner sufficient for the purpose of the delivery of mail.
- 57.1.6** “Reasonable efforts” means the use of reasonable methods to locate apparent owners of unclaimed funds using the taxpayer identification number or social security number, if known, cross-indexing with other records of the holder or mailing to the last known address unless the last known address is unknown or known to be inaccurate.
- 57.1.7** “Unclaimed funds” includes but is not limited to, cash, checks, drafts, deposits, income, credit balances, customer overpayments, security deposits, refunds, or unpaid wages.

57.2**SECTION 2: ANNUAL REPORT****57.2.1**

Every tribal department holding funds presumed unclaimed and subject to custody as unclaimed funds shall file a written report of such funds to the tribes Chief Financial Officer (CFO). The report must be filed before January 15th of each year. The report shall apply to the preceding calendar year. The report shall include the name (if known) and last known address of all persons for whom any department holds money, which has not been claimed for at least one (1) year or more. The report must include:

- (a) The name or name's and date of birth, if known, and last known address, if any, of each person appearing from the records of the holder to be the apparent owner of any funds which is presumed unclaimed in the amount of ten (\$10) dollars or more;
- (b) The nature, in detail, and identifying number, if any, and the amount of unclaimed funds appearing from the records;
- (c) The date the funds came into possession and/or the date of the last transaction with the apparent owner with respect to the funds;
- (d) Such other information as the accounting department may prescribe as necessary for the administration of this chapter.
- (e) A copy of the report shall be filed with the Tribal Treasurer.

57.3**SECTION 3: NOTICE****57.3.1**

Upon receiving the reports, the Chief Financial Officer shall cause to be published a notice on or before February 15th of the same year which contains the names and last known address, if any, of the owners of the unclaimed funds and shall state that unless the apparent owners contact the tribal accounting department and prove their ownership of the funds within ninety (90) days from the time of the completed publication, the Tribe will take possession and control of the funds which shall become an asset of the Tribe.

57.3.2

The notice shall be published for three (3) consecutive issues in a newspaper of general circulation within the county of the last known address of any apparent owner if known, or in the county of the holder if address and/or owner are unknown.

57.3.3

Holders of funds having a value of ten (\$10) dollars or more shall undertake reasonable efforts to contact the apparent owner to make arrangements for its return. Credit balances, customer overpayments, security deposits, and refunds having a value of less than ten (\$10) dollars shall not be presumed unclaimed. The Tribe shall have no obligation to make arrangements for the return of funds

less than ten (\$10) dollars and shall take possession and control of the funds which shall become an asset of the Tribe.

57.3.4 Where the apparent owner cannot be located within ninety (90) days of notice from the Tribe, the Tribe shall be authorized to utilize the unclaimed funds upon judgment in the Tribal Court. The Tribe shall be entitled to reimbursement for any amounts expended in connection with its efforts to return the funds to its apparent owner, including but not limited to amounts spent on attorney's fees, court costs and publications.

57.4 **SECTION 4: PETITION AND CUSTODY OF UNCLAIMED FUNDS**

57.4.1 Any holder of unclaimed funds may file with the Red Cliff Tribal Court a petition for determination that the funds are unclaimed and requesting the department be awarded custody of the funds. The petition shall state any special circumstances that exist, contain the information required by section 57.2.1, and show that reasonable efforts have been made to locate the apparent owner pursuant to section 57.3 of this Chapter. If the Tribal Court finds that reasonable efforts have been made, it shall release custody of the funds subject to any restrictions imposed by the Court.

57.4.2 The Tribal Court shall have the authority to issue final decisions in connection with unclaimed funds. All decisions of the Red Cliff Tribal Court shall be final and non-appealable. The Red Cliff Tribal Court of Appeals shall have no jurisdiction to hear appeals from the decision of the Red Cliff Tribal Court in cases arising under this Chapter.

PUBLIC COMMENT ON THIS PROPOSAL IS ENCOURAGED. PLEASE DROP YOUR COMMENTS AT THE TRIBAL ADMINISTRATION BUILDING, OR FORWARD THEM DIRECTLY TO THE TRIBAL COUNCIL. THIS PROPOSAL WILL BE VOTED UPON ON **Monday January 8th, 2018** AT THE REGULAR MEETING OF THE RED CLIFF TRIBAL COUNCIL. IF THE COUNCIL ENACTS THIS CODE CHANGE, THE CODE CHANGE SHALL BECOME EFFECTIVE **upon enactment.**

DATED: November 27, 2017