

## Ordinance 37-12

An Ordinance amending Subchapter IV (Withholding from Earnings and Per Capita Payments) of Chapter 3 (Procedure) in Title 24 of the Mille Lacs Band Statutes Annotated entitled Judicial Proceedings which authorizes, in part, the withholding from per capita distribution. Hereafter, the right of outside creditors who are granted a Court Order from the Court of Central Jurisdiction will be denied the right to be paid from per capita distribution and will be limited to garnishment of any wages earned. Section 3356 (Priority) is amended to give first priority to child support payments/arrearages, federal tax liens, debts owed to individual Band Members who have obtained a judgment in the Court of Central Jurisdiction, and for debts owed to the Band or any political subdivision thereof. Minor amendments include the correction of typographical errors.

The District III Representative introduced the following Bill on the 9th day of November, 2011.

### Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of amending Subchapter IV-a of Chapter 3 in Title 24 of the Mille Lacs Band Statutes Annotated to amend Sections 3351, 3352, 3353, 3356, 3357, 3358 and 3359. The Band Assembly determines that it is in the best interest of the Band to deny outside creditors the right to be granted payment of any per capita distribution and to restrict the same to wages earned. Similarly, the Band Assembly determines that it is in the best interest of the Band to allow Band Members who are granted a judgment in the Court of Central Jurisdiction against another Band Member to be given priority over debts owed to the Band.

### I.

1. Subchapter IV-a of Chapter 3 in Title 24 of the Mille Lacs Band Statutes Annotated is hereby amended as follows:

#### **§ 3351. Definitions**

(e) The term “per capita payment” means any distribution of gaming proceeds to members of the Mille Lacs Band in accordance with the net gaming distribution plan as approved by the Secretary of Interior pursuant to 25 U.S.C. § 2701 *et seq.* No Band Member or entity as judgment creditor shall have any right, title, interest or entitlement in any per capita share unless and until payment of per capita is made, and any right, title or interest and entitlement accruing at payment shall be subject to Section 3356 of this Title.

### **§ 3352. Withholding from Earnings**

As an ancillary proceeding to (1) a civil action for the recovery of money filed in the Court of Central Jurisdiction, or (2) a civil judicial proceeding, public act or record granted full faith and credit by the Court of Central Jurisdiction pursuant to 24 MLBSA § 2009, the Court of Central Jurisdiction shall have the authority, pursuant to its subject matter jurisdiction as described in 5 MLBSA § 111, to order the Office of Management and Budget to deduct from the earnings of any person to which a debt judgment or judgment for child support has been obtained and remit the amount deducted to the judgment creditor. Except in circumstances of child support payment and arrearages, the earnings of an individual shall not be taken in excess of ten percent (10%) of the individual's disposable income.

### **§ 3353. Withholding from Per Capita Payments**

As an ancillary proceeding to a civil action for the recovery of money filed in the Court of Central Jurisdiction, the Court shall have the authority, pursuant to its subject matter jurisdiction as described in 5 MLBSA § 111, to order the Office of Management and Budget to withhold portions of per capita payments from Band Members against whom a debt judgment owed to the Internal Revenue Service, the Band or individual Band Member or judgment for child support has been obtained and remit the amount withheld to the payee or judgment creditor as authorized hereinabove. Except in circumstances of child support payments and arrearages, such amounts shall not exceed thirty percent (30%) of a payment. In cases involving child support payments and arrearages, such amount shall not exceed fifty percent (50%) of a payment.

### **§ 3356. Priority**

The Court of Central Jurisdiction shall order any deductions from a per capita payment in the following order:

- (a) Child support payments or arrearages;
- (b) Federal tax liens;
- (c) Debts owed to individual Band Members who have obtained a judgment in the Court of Central Jurisdiction; and
- (d) Debts owed to the Band or any political subdivision thereof.

### **§ 3357. Full Payment of Debts**

The Court of Central Jurisdiction shall order the payment of debts recognized pursuant to Section 3353 of this Chapter from a Band Member's per capita payments until such debts are repaid in full or discharged by the Band or individual Band Member as judgment creditor under the following conditions:

- (a) Child support payments and arrearages, regardless of when incurred, shall at all times have priority over debts recognized pursuant to paragraphs (c) and (d) of Section 3356 of this Chapter.
- (b) In the event that multiple claims occur against the same per capita share, the Court shall order as follows: (i) federal tax levies shall have the first priority, except to the extent they allow prior payment of child support; (ii) child support and arrearages; (iii) recovery of debts owed to a Band Member as judgment creditor; and (iv) recovery of debts owed to the Band or political entity thereof.
- (c) Except as specifically provided in Section 3356, the Band shall not recognize or enforce any claim, garnishment, levy, attachment, assignment or other right in a per capita share.
- (d) At no time shall the Court of Central Jurisdiction order deductions from a per capita payment in excess of fifty percent (50%) of such payment.

### **§ 3358. Notice to Creditor**

The Court of Central Jurisdiction shall duly inform any creditor whose prior judgment has been modified by the Court due to a judgment granted in favor of a subsequent creditor with higher priority.

### **§ 3359. Duty of Creditor**

Failure by the Creditor to inform the Court of Central Jurisdiction when a debt has been repaid in full or discharged by the creditor shall constitute grounds for a finding of contempt of court.

Ordinance 37-12  
(Band Assembly Bill 14-04-37-12)

Introduced to the Band Assembly on this  
ninth day of November in the year  
Two-Thousand eleven.


Passed by the Band Assembly on this  
ninth day of November in the year  
Two-Thousand eleven.



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Curt Kalk, Speaker of the Assembly

APPROVED:

Date: 11-9-11

  
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Marge Anderson, Chief Executive

**OFFICIAL SEAL OF THE BAND**