

Ordinance 75-12

An Ordinance amending Subchapter IV-a (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.

The District I Representative introduced the following Bill on the 23rd day of August, 2012.

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 § 3352 entitled “Withhold from Earnings,” and § 3353 entitled “Withholding from Per Capita Payments” to authorize petitioners to obtain and effectuate criminal judgments in the Court of Central Jurisdiction; and amending § 3356 entitled “Priority” to incorporate such relief within the statute.

I.

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

§ 3352. Withholding from Earnings

As an ancillary proceeding to (1) a civil **or criminal** action for the recovery of money filed in the Court of Central Jurisdiction, (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 withhold from the earnings of any person to which a debt judgment or judgment for child support or arrearages has been obtained and remit the amount withheld to the judgment creditor. Except in circumstances of child support payment or arrearages, the earnings of an individual shall not be withheld in excess of ten percent (10%) of the individual’s disposable income. Except as specifically provided in this section or controlling Federal law, the Court shall not order any withholding from the earnings of any person to satisfy any judgment or other claim.

§ 3353. Withholding from Per Capita Payments

A. As an ancillary proceeding to (1) a civil **or criminal** 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 withhold and remit portions of per capita payments from Band Members for the sole purpose of satisfying a judgment or a lien against the Band Member to whom the per capita payments are payable that is:

- (a) In favor of the United States Internal Revenue Service;
 - (b) For child support payments or arrearages;
 - (c) In favor of an individual Band member, *provided* that the Court shall not order the withholding and remission of any portion of a per capita payment to satisfy a judgment or lien obtained in connection with a loan or other transaction relating to a bail bond or other similar transaction;
 - (d) In favor of the Band or any political subdivision thereof;
 - (e) For actual damages expressed in the form of a restitution award incorporated within a final criminal judgment involving: 1) assault and battery as either defined herein, 24 MLBSA § 1102, or pursuant to equivalent federal, state or tribal law; 2) an offense committed against the property of another as defined in Subchapter IV of Chapter 3 herein, or equivalent federal, state or tribal law.
 - (f) Except for judgments or liens for child support payments or arrearages, the total amounts withheld from a per capita payment to satisfy the judgments or liens listed above shall not exceed thirty percent (30%) of the payment. In cases involving judgments or liens for child support payments or arrearages, the total amount withheld shall not exceed fifty percent (50%) of the payment. Except as specifically provided in this Section or controlling Federal law, the Court shall not order any withholding from a per capita payment to satisfy any judgment or other claim.
- B. The Band's Court of Central Jurisdiction shall have no authority to award punitive, special, exemplary, treble, or consequential damages, and any such award shall be null and void and of no effect.

§ 3356. Priority

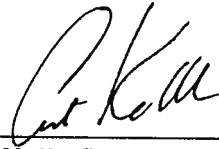
The Court of Central Jurisdiction shall give priority to any withholding from earnings or per capita payments in the following order:

- (a) Satisfaction of a judgment or lien in favor of the United States Internal Revenue Service, except to the extent that Federal law allows priority to be given to satisfaction of a judgment or lien for child support payments or arrearages;
- (b) Satisfaction of a judgment or lien for child support payments or arrearages;
- (c) Satisfaction of a judgment or lien in favor of individual Band Members who obtained the judgment lien in the first instance in the Court of Central Jurisdiction, *provided* that the Court shall not order the withholding of any portion of a per capita payment to satisfy a judgment or lien obtained in connection with a loan or other transaction relating to a bail bond or other similar transaction;
- (d) Satisfaction of a judgment or lien in favor of non-Band member petitioners who obtained a criminal judgment lien in the Court of Central Jurisdiction;
- (e) Satisfaction of a judgment or lien in favor of the Band or any political subdivision thereof;
- (f) Satisfaction of any other judgment in favor of a Band Member for which withholding from earnings is authorized under Section 3352 of this Subchapter, *provided* that the Court shall not order the withholding of a portion of a per capita payment to satisfy such a judgment; and
- (g) Satisfaction of any other judgment in favor of a non-Band Member for which withholding from earnings is authorized under Section 3352 of this Chapter, *provided* that the Court shall not order the withholding of a portion of a per capita payment to satisfy such a judgment.

Ordinance 75-12
(Band Assembly Bill 15-02-75-12)

Introduced to the Band Assembly on this
Twenty-third day of August in the year
Two-Thousand twelve.

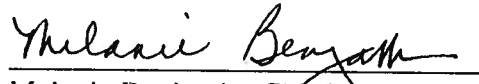
Passed by the Band Assembly on this
Twenty-third day of August in the year
Two-Thousand twelve.



Curt Kalk, Speaker of the Assembly

APPROVED:

Date: August 24, 2012



Melanie Benjamin, Chief Executive

OFFICIAL SEAL OF THE BAND