

Title XXIV

**UNIFORM COMMERCIAL CODE
ORDINANCE No. 182**

Standing Rock Sioux Tribal Code of Justice



**Adopted and Replaced by:
Secured Transaction Ordinance
Resolution No. 538-09
August 11, 2009
Standing Rock Sioux Tribal Council**

RESOLUTION NO. 538-09

- WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians, having accepted the Indian Reorganization Act of June 18, 1934, with the exception of Section 16; and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council; and
- WHEREAS, the Standing Rock Sioux Tribal Council, pursuant to the Amended Constitution of the Standing Rock Sioux Tribe, Article IV, §§1[a], 1[c], and 1[h], is empowered to negotiate with Federal, State and local governments and others on behalf of the Tribe, and to authorize or direct subordinate boards, committees and Tribal Officials, to administer the affairs of the Tribe and to carry out the directives of the Tribal Council; and
- WHEREAS, the Tribal Council adopted Resolution No. 467-09 on July 1, 2009 authorizing the adoption by the Tribal Council of a Standing Resolution or Law incorporating the North Dakota UCC or some other system satisfactory to the Shakopee Mdewakantan Sioux Community for determination of priorities among competing creditors and making available information concerning the existence of non-possessory security interest. As necessary, the Standing Rock Sioux Tribe shall also adopt a Standing Resolution as the law of the Standing Rock Sioux Tribe with respect to any security interest granted by the Standing Rock Sioux Tribe in any cash, revenues or other similar personal property, additional supplemental provision with provide that a security interest in cash and revenues may be perfected [in addition to any method of perfection provided under the North Dakota UCC] by the filing of a financing statement [such a Standing Resolution as amended, the "*Secured Transaction Ordinance*"; and
- WHEREAS, the Judicial Committee of the Standing Rock Sioux Tribe has reviewed the attached *Secured Transaction Ordinance*¹ and recommends that the said Secured Transaction Ordinance be adopted by the Tribal Council as a Standing Resolution to remain in full force and effect until the Tribal Council can authorize and implement the adoption of the said Secured Transaction Ordinance as authorized by SRST Resolution No. 467-09 ;
- NOW THEREFORE BE IT RESOLVED, that the Standing Rock Sioux Tribe hereby adopts the said Secured Transaction Ordinance as a Standing Resolution to remain in full effect until Tribal Council can authorize and implements the adoption of the said Secured Transaction Ordinance as authorized by SRST Resolution No. 467-09 ; and

¹The said Secured Transaction Ordinance is attached hereto and incorporated herein by reference as if fully set forth below.

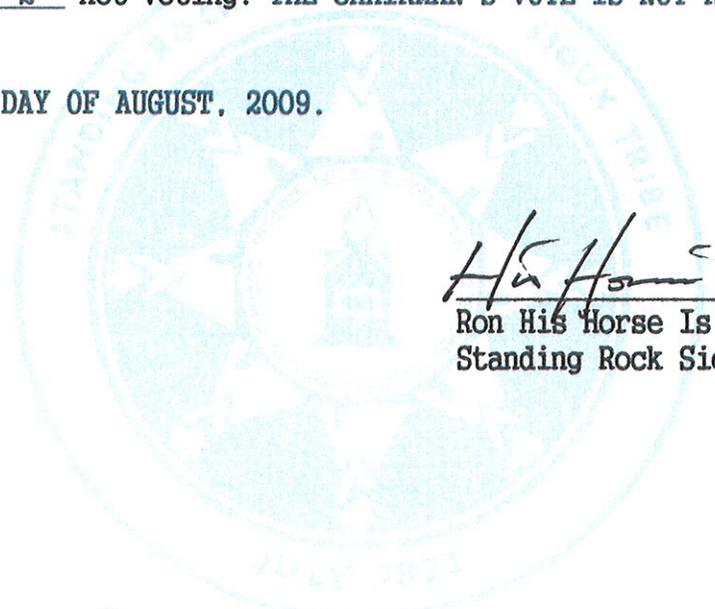
BE IT FURTHER RESOLVED, that the Tribal Legal Department is hereby authorized and directed to post the said Secured Transaction Ordinance for public review and comment for thirty days; and

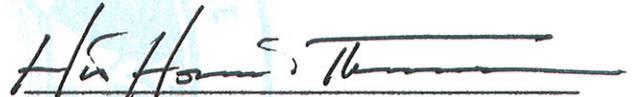
BE IT FURTHER RESOLVED, that the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council, hereby certify that the Tribal Council is composed of seventeen [17] members of whom 13 constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held on the 11th day of AUGUST, 2009, and that the foregoing resolution was duly adopted by the affirmative vote of 11 members, and 0 opposing, and with 2 not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED, EXCEPT IN CASE OF A TIE.**

DATED THIS 11th DAY OF AUGUST, 2009.




Ron His Horse Is Thunder, Chairman
Standing Rock Sioux Tribe

ATTEST:


Geraldine Agard, Secretary
Standing Rock Sioux Tribe

[Official Tribal Seal]

Meeting Date: 08-11-2009
Motion No. 33

TABLE OF CONTENTS

STANDING ROCK SIOUX TRIBE SECURED TRANSACTIONS ORDINANCE

SECTIONS	PAGE
Section 1. Title and Purpose	1
Section 2. Definitions	1
Section 3. Scope	2
Section 4. Laws Applicable to Security Interests	2
Section 5. Amendment	3
Section 6. Effective Date and Repealer	3
Section 7. No Waiver of Immunity	3
Section 8. Severability	3
Section 9. Adoption	3

STANDING ROCK SIOUX TRIBE SECURED TRANSACTIONS ORDINANCE

Section 1. Title and Purpose

(a) Title. This Ordinance shall be known as the "Secured Transactions Ordinance."

(b) Purpose. The purpose of this Ordinance is to recognize that under the law of the Standing Rock Sioux (hereafter "Tribe"), except as otherwise provided in this Ordinance, secured parties shall have the same rights with respect to collateral subject to the sovereign authority of Tribe as would exist if all aspects of the security interest (including but not limited to its creation, attachment, perfection and priority) had been governed by the North Dakota UCC, without regard to the choice of law principles set forth therein.

Section 2. Definitions

In this Ordinance, the terms listed below shall have the following meanings:

- (a) "North Dakota UCC" means the Uniform Commercial Code as adopted by the State of North Dakota at North Dakota Century Code Chapter 41, or as enacted in the statutes and laws of the State of North Dakota as amended from time to time in accordance with the laws of North Dakota.
- (b) "Pledged Revenues" means all of a Tribal Party's money, earnings, income and revenues, (and any proceeds thereof), and all of the Tribal Party's rights to and interest with respect to receiving the foregoing before actual possession thereof, whether in the form of money, deposit accounts, investments, accounts, instruments or other assets, and the proceeds thereof, in which such Tribal Party has granted a security interest to a secured party in a writing signed by the Tribal Party.
- (c) "Tribal Lands" means all lands within the Tribe's federally recognized reservation and all lands held by the United States in trust for the benefit of the Tribe or individual members of the Tribe over which the Tribe possesses jurisdiction.
- (d) "Tribal Party" means any of the Tribe and any division, subdivision, branch, department, board, committee, commission, agency, authority, enterprise, instrumentality, component or entity wholly-owned or wholly-controlled, directly or indirectly, by the Tribe, along with the successors and assigns of each.

Any undefined terms that are defined in the North Dakota UCC are used in this Ordinance with the meanings that apply in the North Dakota UCC.

Section 3. Scope

- (a) This Ordinance shall apply to all security interests and collateral subject to the sovereign authority of Tribe to the same extent provided in North Dakota Century Code § 41-09-09, except that North Dakota Century Code § 41-09-09(3) shall be ineffective to limit the application of the North Dakota UCC in accordance with this Ordinance.
- (b) This Ordinance is intended to be a law, within the meaning of North Dakota Century Code § 41-09-27(3), which generally requires information concerning the existence of a non-possessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest.s obtaining priority over the rights of a lien creditor with respect to the collateral.

Section 4. Laws Applicable to Security Interests

- (a) With respect to any security interest to which this Ordinance applies, except as provided elsewhere in this Section 4, the rights and obligations of any person shall be governed as if the North Dakota UCC applied fully thereto, including those rights and obligations related to enforcement of a security interest or arising after a default.
- (b) Except as provided elsewhere in this Section 4, the perfection, effect of perfection or nonperfection and priority of any security interest to which this Ordinance applies shall be determined as if the North Dakota UCC applied fully thereto and as if each debtor were (for purposes of North Dakota Century Code § 41-09-21 through North Dakota Century Code § 41-09-27 located in the State of North Dakota and as if the Tribal Lands were located in the State of North Dakota.
- (c) Notwithstanding any provision of the North Dakota UCC or this Ordinance to the contrary, a security interest granted by a Tribal Party in Pledged Revenues shall be created and attach upon the giving of value and the granting of such security interest in a writing executed by that Tribal Party. Such security interest may be perfected only by the filing of an initial financing statement in the same manner and in the same location as if all of such Pledged Revenues were accounts.

- (d) Except as provided in section 2, above, i.e., "[a]ny undefined terms that are defined in the North Dakota UCC are used in this Ordinance with the meanings that apply in the North Dakota UCC.; the Courts of the Standing Rock Sioux Tribe may use North Dakota common law only as non-binding, persuasive precedent.
- (e) The Standing Rock Sioux Tribe expressly prohibits self-help repossession. Any creditor must use the Courts of the Standing Rock Sioux Tribe to foreclose their security interest unless the documents underlying the cause of action expressly require the matter to be heard by a court other than the Standing Rock Sioux Tribal Court. The Courts of the Standing Rock Sioux Tribe will follow the choice of laws agreed upon by the parties as set forth in contracts, promissory notes and other documents within the purview of this Ordinance.

Section 5. Amendment

Once applicable to any security interest, this Ordinance shall remain in effect with respect to that security interest until all obligations secured thereby have been fully and finally discharged or otherwise fully satisfied, except that this Ordinance may be amended with the prior written consent of each secured party or, absent such consent, with prior notice to each secured party and only to the extent such amendment is not materially adverse to any secured party with respect to any security interest.

Section 6. Effective Date and Repealer

- (a) Any prior tribal secured transactions act or law is hereby repealed in its entirety, *provided, however*, that any security interest created thereunder shall continue to be effective in accordance with its terms as a security interest under this Ordinance.
- (b) To the extent any provision of any law, ordinance, resolution, motion or any other action of any Tribal Party heretofore taken is in conflict with any provision of this Ordinance, the provisions of this Ordinance shall supersede and the conflicting provision shall be and hereby is repealed.
- (c) This Ordinance is effective upon the date of its enactment.

Section 7. No Waiver of Immunity

Nothing in this Ordinance shall waive or impair the Tribes's sovereign immunity or the sovereign immunity of any other Tribal Party.

Section 8. Severability

If any section or provision of this Ordinance is held to be invalid, the remaining sections of this Ordinance shall remain in full force and effect.

Section 9. Adoption.

This Secured Transactions Ordinance shall be adopted when approved by resolution by the Standing Rock Sioux Tribal Council. The approval resolution shall be attached hereto.