

WAGANAKISING ODAWA



TRIBAL CODE of LAW TITLE XIII. MARRIAGE AND PROBATE

2024.2

WAGANAKISING ODAWA TRIBAL CODE of LAW

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TITLE XIII. MARRIAGE AND PROBATE

Chapter 1. Marriage

13.101 PURPOSE

The purpose of this act is to govern the making of marriages under Tribal law. This statute repeals and replaces Waganakising Odawak Statute 2020-010.

(Source: WOS 2023-017, October 10, 2023, Section I)

13.102 DEFINITIONS

- A.** “Adult” means a person 18 years of age or older.
- B.** “Endorsement” means the Marriage Clerk or Deputy Marriage Clerk endorses the marriage license for a proper legal record.
- C.** “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians.
- D.** “Marriage” means the legal and voluntary union of two persons to the exclusion of all others.
- E.** “Marriage Clerk” means a person(s) who issues Marriage commissions and endorses Marriage Certificate on behalf of the Little Traverse Bay Bands of Odawa Indians and is responsible for filing and maintaining records under this statute, including Deputy Marriage Clerk(s).
- F.** “Marriage Commissioner” means a person who has been issued a Marriage commission by the Little Traverse Bay Bands of Odawa Indians.
- G.** “Reservation” means the areas referenced in Public Law 103-324, 25 U.S.C. §1300k-2(b)(2)(A) as “the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat. 621.”

H. “Tribal Citizen” means an enrolled member of Little Traverse Bay Bands of Odawa Indians.

I. “Tribal Court” means the Tribal Court of the Little Traverse Bay Bands of Odawa Indians as defined in the LTBB Constitution.

(Source: WOS 2023-017, October 10, 2023, Section II)

13.103 MARRIAGE AND THE CAPACITY TO MARRY

A. Marriage as a civil contract. To be valid, and for purposes of this law, marriage is a civil contract, to which the consent of parties capable of making it is necessary. Consent alone will not constitute a marriage. A marriage relies upon the issuance of a license, a ceremony solemnizing the marriage, and the endorsement of the marriage certificate.

B. Capacity to consent. A person seeking to be married must fulfill each of the following requirements:

1. Freely consent to the marriage and have the mental capacity to marry;
2. Be at least 18 years of age or older as evidenced by a birth certificate, driver’s license, passport, Tribal Enrollment card or other identification documents, be at least 16 years of age as evidenced by a birth certificate, driver’s license, passport, Tribal Enrollment card or other identification documents and with the consent of a parent or legal guardian, which consent must be notarized, or has been emancipated by a court of competent jurisdiction;
3. Not have an existing spouse; and
4. Not be blood relatives to each other in any of the following degrees:
 - a. Parent and child;
 - b. Grandparent and grandchild;

- c. Brother and sister, or half-brother and half-sister;
- d. Uncle and niece, or aunt and nephew; or
- e. Cousins in the first degree.

(Source: WOS 2023-017, October 10, 2023, Section III)

13.104 MARRIAGE LICENSES

A. Application for Marriage License. All persons wishing to be married in accordance with this act shall obtain a marriage license from a Marriage Clerk or a Marriage Commissioner. The application to obtain a marriage license shall be in the form of an affidavit and shall contain the following information for each person:

1. Full legal name, including last name before first marriage, if previously married;
2. Home mailing and street address;
3. Age;
4. Sex;
5. Social Security Number;
6. LTBB Tribal affiliation, if applicable;
7. Present age and date and place of birth;
8. If either party was previously married number of times;
9. The names of each person's parents and the place of birth for each parent, if known. For each person's mother, the mother's name before first marriage shall be

identified, if known;

10. If either person is a minor, the name and address of the parents, adoptive parent, or guardian of each party; or if emancipated, certified copies of papers granting emancipation;

11. A statement of consent to the civil jurisdiction of the Tribe; and

12. A statement that says “I, we, intend to marry and that this affidavit is made for the purpose of obtaining a marriage license; that each of the above-named persons is not related to the other within the degree prohibited by the Tribe’s marriage laws and is of sufficient mental capacity to contract marriage; that said persons are acquainted with the laws of the Little Traverse Bay Bands of Odawa Indians relative to marriage; that there is no legal impediment to said marriage; and that to the best of knowledge and belief of the undersigned all of the foregoing statements are true.”

B. Authority of Marriage Clerk to issue marriage licenses.

1. A Marriage Clerk or Marriage Commissioner shall have the power to issue a marriage license.

2. A Marriage Clerk or Marriage Commissioner shall issue a marriage license upon validation of the following:

a. A properly-completed affidavit for a marriage license;

b. Payment of a reasonable license and processing fee; and

c. A statement of consent to the civil jurisdiction of the Tribe.

C. Validity of License. A marriage license shall be valid for 30 days from the date of issuance.

(Source: WOS 2023-017, October 10, 2023, Section IV)

13.105 SOLEMNIZATION OF MARRIAGE

A. Qualification to perform marriages.

1. The following persons shall be qualified to perform marriages under this statute:
 - a. A medicine person or traditional spiritual leader;
 - b. Clergymen duly designated by the governing body of his or her faith as having the authority to perform marriages;
 - c. A Tribal Court Judge of the Tribal Court or Justice of the Tribal Court of Appeals;
 - d. The Tribal Chairperson;
 - e. A Tribal Judge of a Court of another federally recognized Tribe who is authorized by Tribal law to perform marriages;
 - f. A Tribal Notary; and
 - g. Any person who is deemed qualified by the persons being married.

B. Permissible location. A marriage performed in accordance with this act shall be solemnized within the Reservation.

C. Examination of marriage license. Prior to the marriage ceremony, the person performing the ceremony shall review the marriage license and determine that the persons seeking to be married are the persons named on the license. For that purpose, the person performing the ceremony may administer oaths and examine the identification of the persons seeking to be married.

D. Marriage ceremony. A marriage ceremony performed under this act need not take any particular form, but the persons seeking to be married must declare in the presence of the person performing the ceremony, and in the presence of two adult witnesses, that they receive each other as spouses. After the ceremony, the person who performed the marriage ceremony shall sign the marriage license with a statement that shall include their name, address, and if applicable title; date and place of the ceremony; and the names of two witnesses. The two witnesses shall also print and sign the marriage license.

(Source: WOS 2023-017, October 10, 2023, Section V)

13.106 PROCEDURE FOR RECOGNITION OF MARRIAGES AFTER SOLEMNIZATION

A. Return of fully-executed marriage license to the Marriage Clerk. Following the marriage ceremony, the marriage affidavit, and the fully executed marriage license shall be returned to the Marriage Clerk within seven days for endorsement.

B. Endorsement of marriage license by Marriage Clerk. The Marriage Clerk must endorse upon each copy its date of receipt.

C. Marriage Clerk issuance of marriage certificate. Upon receipt of a fully-executed marriage license and the original marriage license affidavit, the Marriage Clerk must examine the affidavit, the license, and the signatures of the witnesses and the person performing the marriage to ensure that the information appearing is complete and that the marriage was performed in accordance with the provisions of the license. Upon a determination that the affidavit, the license, and the signatures are in proper form, and that there has been compliance with the terms of the license, the Marriage Clerk shall endorse its certification upon the license, and deliver a copy of the marriage license to the persons for whom it was issued. The endorsement must be completed to ensure a proper legal record of marriage.

D. Storage of marriage records. The Marriage Clerk shall file the certified marriage license of marriage together with the application and affidavit for marriage license with the permanent records of the Tribe.

E. Obtaining certified copies of marriage certificate. Should the parties to any marriage performed under the auspices of these provisions desire that a marriage certificate be filed or recorded in another jurisdiction, they may obtain certified copies from the Marriage Clerk at a fee not to exceed \$25.00.

(Source: WOS 2023-017, October 10, 2023, Section VI)

13.107 MARRIAGE COMMISSIONER

A. Qualifications. The Marriage Clerk shall issue a Marriage commission to any qualified person who submits an application in accordance with this statute. The Marriage Clerk may charge a reasonable application fee. A person qualified for a Marriage commission shall be:

1. A citizen of the Little Traverse Bay Bands of Odawa Indians;
2. A registered Tribal Notary of the Little Traverse Bay Bands of Odawa Indians;
3. A legal resident of the United States;

B. Application Materials. Every application for a Marriage commission shall be made on forms determined by the Marriage Clerk that shall include:

1. The applicant's name as it appears on their Notary Commission;
2. The applicant's residence address and telephone number;
3. A declaration that the applicant is a citizen of the Little Traverse Bay Bands of Odawa Indians and documentation of proof;
4. A declaration that the applicant is a citizen of the United States or proof of the applicant's legal residency in this country;

5. Documentation that the person is a registered Tribal Notary of the Little Traverse Bay Bands of Odawa Indians;
6. An application fee;
7. Such other information as the Marriage Clerk may deem appropriate.
8. A statement that says “I certify, with my signature below, that I have read the Marriage Statute and understand the required marriage license process.”

C. Application Denial. The Marriage Clerk shall deny an application based on any of the following:

1. Submission of an official application containing material misstatement or omission of fact; or
2. Revocation or suspension of their Little Traverse Bay Bands of Odawa Indians Tribal Notary status.

D. Application Appeal. Denial of an application may be appealed by filing in proper form with the Tribal Court within 30 days after denial, except that an applicant may not appeal when the Marriage Clerk within 5 years prior to the application has:

1. Denied or revoked for disciplinary reasons any previous application, commission, or license of the applicant; or
2. Made a finding that grounds for revocation of the applicant’s commission existed.

E. Upon receipt of valid Marriage commission issued by the Little Traverse Bay Bands of Odawa Indians Marriage Clerk, such person shall be designated as a “Marriage Commissioner” and shall be authorized to perform the applicable functions of this statute.

F. Jurisdiction and Term. A person commissioned as a Marriage Commissioner shall have a six-year term, unless the commission is earlier revoked for “Official Misconduct,” resigned or

surety bond has expired.

G. “Official Misconduct” means:

1. A Marriage Commissioner’s performance of any act prohibited, or failure to perform any act mandated, by this statute or by any other law in connection with a marriage commission; or
2. A Marriage Commissioner’s performance of an official act in a manner found by the Marriage Clerk and/or the Tribal Court to be negligent or against the public interest.

(Source: WOS 2023-017, October 10, 2023, Section VII)

13.108 RECOGNITION OF FOREIGN MARRIAGES, AFFIRMANCE OF PAST TRIBAL COURT MARRIAGES

A. Recognition of foreign marriages. The Little Traverse Bay Bands of Odawa Indians shall recognize as valid and binding any marriage formalized or solemnized in compliance with the laws of the place of formalization or solemnization.

B. Prior Tribal Court Marriages. The Little Traverse Bay Bands of Odawa Indians affirms the validity and binding nature of all prior marriages performed in accordance with the Tribe’s marriage laws then in effect.

(Source: WOS 2023-017, October 10, 2023, Section VIII)

13.109 SEVERABILITY

In the event that any phrase, provision, part, paragraph, subsection or section of this statute is found by a court of competent jurisdiction to violate the Constitution, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this statute, the entirety of the balance of the statute to remain in full and binding force and effect.

(Source: WOS 2023-017, October 10, 2023, Section IX)

SECTION X. EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval, whichever comes first, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2023-017, October 10, 2023, Section X)

Chapter 2. Dissolution of Marriage

13.201 PURPOSE AND TITLE

The Little Traverse Bay Bands of Odawa Indians finds that the Tribe’s interest over family relations is an integral part of tribal self-government and the Tribe’s history and culture, that it is exceedingly important to the Tribe to support the preservation of families, that families thrive when they receive appropriate emotional and financial support, and that the lives of children and families improve by strengthening parental responsibility for family and child support. The Tribe encourages the protection and preservation of the continuity of family, but recognizes that in the event of dissolution of marriage, divorce proceedings need uniform, efficient and equitable ways to provide for the dissolution of the marriage. This statute repeals and replaces Waganakising Odawak Statute 2023-001.

(Source: WOS 2023-019, October 10, 2023, Section I)

13.202 DEFINITIONS

- A. “Court” means the Little Traverse Bay Bands of Odawa Indians Tribal Court.
- B. “Domicile” means the permanent home where a person physically resides or intends to return.
- C. “Marriage” means the legal and voluntary union of two persons to the exclusion of all others
- D. “Reservation” means the areas referenced in Public Law 103-324, 25 U.S.C. §1300k-2(b)(2)(A) as “the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat. 621.”
- E. “Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians” means all land that is held in trust by the United States government for the benefit of the Tribe.
- F. “Tribe” means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2023-019, October 10, 2023, Section II)

13.203 JURISDICTION

A. The Court shall have jurisdiction over proceedings for the dissolution of marriage when any of the following circumstances apply:

1. The underlying marriage certificate was issued by the Tribe's Marriage Clerk.
2. At least one party to the proceedings is a citizen of the Tribe and is domiciled within the Reservation when the petition for divorce is filed.
3. At least one party to the proceedings is a citizen of the Tribe and the Court determines that it is appropriate to exercise jurisdiction.

B. When exercising jurisdiction under this statute, the Court shall, in an equitable fashion:

1. Resolve issues related to the division of personal property.
2. Resolve issues related to the division of real property located within the Tribe's territorial jurisdiction, factoring in the division of any real property located elsewhere.
3. Resolve issues related to alimony.
4. Resolve issues related to child custody, visitation and child support when jurisdiction is proper under and in accordance with the Tribe's parentage and custody laws.
5. Resolve any other issues related to financial or other obligations.

(Source: WOS 2023-019, October 10, 2023, Section III)

13.204 SIMPLE DISSOLUTION

A. An action for Simple Dissolution shall be commenced by the filing of a joint petition by the parties that contains the following:

1. The full legal name, address, social security number and driver's license number of each party to the marriage;
2. The Tribal Citizenship number of at least one of the parties;
3. The location of each party's domicile and the length of time each has resided at that domicile;
4. A statement that the parties have no children under the age of 18, unless emancipated, or no dependent children together, and the wife is not pregnant;
5. The maiden name of the child-bearing spouse and/or her name prior to the marriage if different;
6. The date and location of the marriage;
7. The date and location of the separation of the parties;
8. A statement that there has been a breakdown in the marital relationship to the point that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved, or that the parties have lived separate and apart for one year;
9. A proposed division of marital property and debt that contains provisions about how personal belongings, assets, property, and their debts are going to be divided once the parties are no longer married. Or a statement that there are no personal belongings, assets, debts, or property such as homes, cars, etc.
10. A statement that neither party is requesting alimony.

B. A simple dissolution shall be granted by the Court without a hearing.

(Source: WOS 2023-019, October 10, 2023, Section IV)

13.205 DISSOLUTION OF MARRIAGE

A. A decree of dissolution of marriage shall be granted without regard to the fault of the parties and upon a finding that the marriage has broken down irretrievably, and that there remains no reasonable likelihood that the marriage can be preserved; or the parties have mutually and voluntarily lived separate and apart without cohabitation for a period of at least one year immediately prior to the filing of the petition for divorce.

B. Fault of a party or basis for the breakdown of the marriage, is a relevant factor in awarding alimony or spousal support notwithstanding the decree of dissolution of marriage granted without regard to the fault of the parties.

C. An action for divorce shall be commenced by the filing of a petition by one of the parties and shall contain the following:

- 1.** The full legal name, address, social security number and driver's license number of each party to the marriage;
- 2.** The location of each party's domicile and the length of time each has resided at that domicile;
- 3.** The Tribal Citizenship number of at least one of the parties;
- 4.** The names and birth dates of any children born of the marriage or of any children born prior to the marriage where one of the parties is asserted to be the father;
- 5.** A statement as to whether or not a spouse is pregnant at the time the petition is filed;
- 6.** The maiden name of the child-bearing spouse and/or her name prior to the marriage if different;

7. The date and location of the marriage;
 8. The date and location of the separation of the parties;
 9. A proposed division of marital property and debt, and custody of children, if any.
 10. A statement that there has been a breakdown in the marital relationship to the point that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved, or that the parties have lived separate and apart for one year.
- C. The non-petitioning party may file a response to the petition within 30 days of receipt of the petition.
- D. The response may state the facts and circumstances which show that there are no valid grounds for divorce, or may seek a division of property, child custody arrangement, or other relief different than that proposed by the petitioner.
- E. A copy of the response must be served on the petitioning spouse.
- F. Following a petition for divorce, and after the opportunity for the non-petitioning party to respond, the Tribal Court shall hold a hearing unless the parties have stipulated to all matters and issues pending.
- G. If the parties stipulate, and the Tribal Court is convinced that the stipulation is fair and equitable, the court may enter a decree without a hearing.
- H. If minor children are involved, the Court may order the parties to counseling, continue the action for a maximum of three months to enable the parties to reconcile, or take such other actions as may be in the best interests of the parties or the minor children of the marriage.
- I. Hearings shall be held within six months of the date that the petition is filed, with actions involving the custody of minor children taking precedence over all other civil cases.

J. At the hearing, both parties shall have the opportunity to testify, call witnesses, present evidence and cross-examine their spouse and any other witnesses.

K. The intentional filing of groundless petitions shall result in the imposition of sanctions.

L. A final order of the Tribal Court may be appealed in the same fashion and manner as any other order of the Court.

(Source: WOS 2023-019, October 10, 2023, Section V)

13.206 ALIMONY

Alimony is a form of support to a dependent spouse. The spouse must be substantially dependent on the income of another spouse for the regular necessities of life. The amount of alimony or spousal support will vary with the disparity of the party's incomes and the length of the marriage. Alimony may be awarded for a term of years and/or upon the death or remarriage of the parties.

A. After the equitable distribution of assets and liabilities, the Court may grant alimony to either party, in a lump sum payment or in periodic payments or both.

B. The Court shall consider the length of the marriage, the age, physical and emotional conditions of each of the parties and all sources of available income to either party.

1. All sources of available income. The Court shall recognize all sources of current available separate household income when the parties have mutually and voluntarily lived separate and apart without cohabitation for a period of at least one year immediately prior to the filing of the petition for divorce.

2. Such order may be modified, on motion of either party to reflect changes in either party's economic circumstances.

C. Groundless filings may result in the imposition of sanctions.

D. The Court, upon motion, shall terminate alimony to any spouse who has remarried or upon the death of either party.

(Source: WOS 2023-019, October 10, 2023, Section VI)

13.207 TEMPORARY INTERIM ORDERS

A. The Court may issue temporary orders during the pendency of all proceedings involving child custody, child support, visitation, alimony and the possession of real and personal property.

B. Such orders may be granted upon the motion of either party or on the Court's own motion. A hearing shall be held prior to the issuance of such orders, unless the Court determines that an emergency exists or a party cannot be found, in which case such orders may be issued without a hearing.

C. Emergency may be interpreted to include, but not limited to:

- 1.** A danger of physical abuse to the spouse or the party's child(ren);
- 2.** Severe emotional abuse;
- 3.** A lack of means for interim subsistence; or
- 4.** The danger that the child(ren) will be removed from jurisdiction.

D. If the initial order is issued without a hearing, a full hearing on the temporary order shall be held within 14 days.

(Source: WOS 2023-019, October 10, 2023, Section VII)

13.208 ENFORCEMENT

When either party to a divorce proceeding shall fail willfully to comply with an order of the

Tribal Court, the other party may file a petition with the Court alleging such failure. The Court shall then issue notice to the party, which shall include a copy of the petition, and set a date for the hearing. At the hearing, the Court shall take testimony as to the alleged failure to comply with its order, and issue any order which it shall deem just and proper under the circumstances.

(Source: WOS 2023-019, October 10, 2023, Section VIII)

13.209 SEVERABILITY

In the event that any phrase, provision, part, paragraph, subsection or section of this statute is found by a court of competent jurisdiction to violate the Constitution, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this statute, the entirety of the balance of the statute to remain in full and binding force and effect.

(Source: WOS 2023-019, October 10, 2023, Section IX)

SECTION X. EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval, whichever comes first, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2023-019, October 10, 2023, Section X)

Chapter 3. Probate Code

13.301 PURPOSE

The purpose of this statute is to provide for the distribution of estates of citizens of the Little Traverse Bay Bands of Odawa Indians regardless of domicile at the time of death, as well as any person domiciled within the territorial jurisdiction of the Little Traverse Bay Bands of Odawa Indians at the time of death. This statute repeals and replaces Waganakising Odawak Statute 2006-020.

(Source: WOS 2023-015, October 10, 2023, Section I)

13.302 JURISDICTION

Upon the death of a Tribal citizen, or of any person domiciled within LTBB's territorial jurisdiction, the Tribal Court has jurisdiction to determine the heirs of the decedent, the claims of creditors, and the distribution of property under this statute. The Court's jurisdiction in probate matters shall cover all of the decedent's real property located within the Tribe's territorial jurisdiction, all of the decedent's personal property regardless of location, and any debts owed to the decedent.

(Source: WOS 2023-015, October 10, 2023, Section II)

13.303 COVERAGE OF THIS STATUTE

A. The provisions of this statute shall be used to distribute assets valued at more than \$27,000.00. If a decedent owns \$27,000.00 or less in assets, the Court shall not have jurisdiction to probate the estate under this statute.

B. The coverage limit in the preceding subsection shall apply to decedents who die before January 1, 2024. For decedents who die after December 31, 2023, the specific dollar amount in the preceding subsection shall be adjusted to the specific dollar amount specified in the Michigan Department of Treasury's annual cost-of-living adjustment for RCW 700.3982.

C. In accordance with the preceding subsections, the Court administrator shall prominently post the coverage limit of this statute.

(Source: WOS 2023-015, October 10, 2023, Section III)

13.304 DEFINITIONS

For purposes of this statute, the terms below are defined as follows:

A. “Beneficiary” means a person who is designated to receive something from a legal arrangement or instrument, for example, property designated pursuant to a decedent’s valid will, income from a trust, or the proceeds from an insurance policy.

B. “Coverage Limit” means the minimum value of an estate for the Court to exercise jurisdiction under Section III of this statute.

C. “Decedent” means a deceased person with interests to be determined as demonstrated within this statute.

D. “Domicile” means the permanent home where a person physically resides or intends to return.

E. “Heir” means a person who is entitled under this statute, based upon a family relationship to the decedent, to receive the property of a decedent who dies without a will.

F. “Holographic Will” means a will that is written entirely by the decedent that is not witnessed or otherwise does not fully comply with the requirements for a will under this statute.

G. “Immediate Family” means family members generally comprised of the surviving spouse, parents, grandparents, son(s), daughter(s), brother(s) and sister(s) of the decedent.

- H.** “Legally Incompetent” means a person determined by a court to be mentally or physically unable or unfit to comprehend the nature and consequences of legal proceedings.
- I.** “Minor” means a person who has not reached age eighteen (18).
- J.** “Marriage” means the legal and voluntary union of two persons to the exclusion of all others.
- K.** “Probate” means the legal process by which applicable Tribal common and written law, state law, or federal law that affects the distribution of the decedent’s estate is applied to determine the decedent’s heirs, approve wills and beneficiaries, and transfer any personal or real property held in trust by a trustee for a decedent to the heirs, beneficiaries, or other persons or entities entitled by law.
- L.** “Real Property” means property including all improvements and fixtures upon land; that which is incidental and appurtenant to land; all rights, interests, privileges, easements, and encumbrances relating to land, including tenancies and liens of judgment, mortgage, or otherwise; and any portion of these, except that such term shall never include subsurface rights or the title or ownership interest in tribal, trust, or otherwise restricted land.
- M.** “Testator” means a person who has written a will.
- N.** “Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians” means all land that is held in trust by the United States government for the benefit of the Tribe.
- O.** “Tribe” or “LTBB” means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2023-015, October 10, 2023, Section IV)

13.305 LIMITED JURISDICTION OVER TRANSFERS INVOLVING REAL PROPERTY

With respect to lands within the Tribe’s territorial jurisdiction, the Court shall effectuate transfers of land assignments or permanent structures affixed to the land, in accordance with codified Tribal Property and Housing law.

Once the transfer is complete, the Court shall forward a copy of the “transfer” to the Executive Branch for record-keeping purposes. The Court may only effectuate transfer title of real property if the decedent owned the property in fee, with no tribal or federal ownership interests or restrictions.

(Source: WOS 2023-015, October 10, 2023, Section V)

13.306 PETITION FOR ADMINISTRATION OF ESTATE OR FOR PROBATE OF WILL

A. Filing. The surviving spouse, or if none, any family member of the decedent, the personal representative as designated in the decedent’s will, or a creditor of the decedent may file a probate petition. In the case of an unmarried minor, a legal guardian, or person appointed by the Court if a ward of the Court, may file the petition.

B. Time for Filing. The petition should normally be filed within 60 days of the death of decedent.

C. Form of Filing. The petition shall contain the following information:

1. The date and location of death of decedent and age of decedent at time of death;
2. A statement of the decedent’s tribal affiliation, if any;
3. The name of the person filing the petition, tribal enrollment number, if any, age, residence, and relationship to the decedent;
4. A statement that the decedent left no will, or that the will is filed with the petition and offered for probate;

5. The names, ages, and relationship to the decedent of all known heirs of decedent, and if decedent dies with a will, the names, ages, and relationship, if any, of all beneficiaries under the will;
6. A detailed statement of assets and approximate value of each;
7. A list of names and addresses of the decedent's creditors, including all possible creditors that the petitioner can reasonably determine by reviewing the decedent's financial records and papers; and
8. A general list of items that were buried/burned with decedent not to be distributed.

D. Minor or Legally Incompetent Heirs. Upon the filing of the petition for administration, the Court shall ascertain whether or not there are any heirs, legatees, or devisees under the age of 18 years or legally incompetent heirs. If so, the Court shall appoint a guardian ad litem to represent the minor or legally incompetent heir's interests until the determination of distribution of belongings is final. The Court will give careful attention to all actions concerning a minor or a legally incompetent heir.

(Source: WOS 2023-015, October 10, 2023, Section VI)

13.307 APPROVAL OF WILLS

A. When any member of the LTBB Community dies, the Tribal Court shall at the request of any interested party determine the validity of the will after giving notice and full opportunity to appear in Court to tell all persons who might be beneficiaries of the decedent. The Court shall provide actual notice of the proceedings to each beneficiary designated in decedent's will. In the event of a will contest, the Court shall try the case according to rules and procedures relating to civil cases in the LTBB Tribal Court. Normally challenges to a will should not be accepted after a final probate order is issued.

B. Formal Will. A will shall be deemed valid if (1) the decedent had a sane mind

and understood what s/he was doing when s/he made the will, (2) the decedent was not subject to any undue influence of any kind from any person, and (3) if the will was made in writing and signed by the decedent and at least one witness. The witness cannot be a beneficiary under the will or have a significant interest in the outcome of the will. If the Court determines the will to be validly executed, it shall issue a final probate order, stating that the property described in the will be given to the persons named in the will or, in the event that a person named in the will predeceases the testator, to their heirs of that person in accordance with this statute.

C. Holographic Wills. The Court has discretion to determine the validity of a decedent's holographic will. The Court may consider evidence including, but not limited to, affidavits or testimony verifying that the will was hand-written by the decedent and that the decedent was not subject to duress when writing the will. If the Court determines that the holographic will is valid, it shall issue a final probate order, stating that the property described in the will be given to the persons named in the will or, in the event that a person named in the will predeceases the testator, to their heirs of that person in accordance with this statute.

D. Invalid Will; Property Not Accounted for in Decedent's Will. Where the Court finds that the decedent's will is invalid, the Court shall order the administration of decedent's estate as if the decedent had died without a will. Where the Court finds that there is property of the decedent that was left out of a valid will and no other lawful instrument designates a beneficiary, the Court shall order distribution of the undesignated property, by following the procedures under this statute where the decedent dies without a will.

E. Beneficiary Criminally Responsible for the Death of the Decedent. Any beneficiary or any heir of the decedent found to be criminally responsible for the death of the decedent shall not be entitled to inherit or receive any interest of the decedent's estate.

(Source: WOS 2023-015, October 10, 2023, Section VII)

13.308 ADMINISTRATION OF ESTATE WHERE DECEDENT HAS NO WILL

Administration of a decedent's property commences by filing a petition for administration with the Tribal Court. Once the probate petition is filed, pursuant to Section VI of this statute, the Tribal Court shall order distribution of the decedent's assets remaining after satisfaction of the debts and expenses of the estate as follows in the event it determines that no valid will exists:

- A. If a spouse survives decedent, all assets shall be distributed to the surviving spouse;
- B. If there is no surviving spouse, all assets shall be distributed equally to decedent's surviving children;
- C. If there is no surviving spouse or children, all assets shall be distributed to decedent's surviving parent/s;
- D. If there is no surviving spouse, children or parents, all assets shall be distributed equally among decedent's grand-children;
- E. If there are no surviving persons listed in A-D, all assets shall be distributed equally among decedent's surviving sibling/s;
- F. If there are no surviving persons listed in A-E, all assets shall be distributed equally to decedent's surviving first cousin/s;
- G. If there are no surviving persons listed in A-F, any real property in the Reservation shall escheat to LTBB; any other assets shall be distributed as the Court deems equitable to close friends or caretakers of the decedent.

(Source: WOS 2023-015, October 10, 2023, Section VIII)

13.309 DETERMINATION OF HEIRS AND DISTRIBUTION OF PROPERTY

- A. In the case of a decedent without a will, the Court will make such inquiries of the petitioner, family members, the Enrollment Office or other sources as it deems necessary to make sure the list of heirs is submitted with the petition is complete.

B. In the case of multiple heirs and mixed financial, personal property and or real property assets, the Court shall hold hearings as it deems necessary to determine equitable distribution. Provided, a distribution plan submitted jointly by all affected heirs shall be presumed equitable.

(Source: WOS 2023-015, October 10, 2023, Section IX)

13.310 NOTICE TO CREDITORS

A. Once the Court receives the list of creditors in the Probate petition, the Court shall mail notice to each creditor listed that probate proceedings have commenced for the possessions of the decedent. Proof of mailing shall be filed in the case record.

B. For creditors who may be unknown or are not reasonably ascertainable, the Court shall issue a notice to creditors by publication. The notice shall be published on the Tribal website, in a Tribal newspaper and in one other local newspaper of general circulation for two consecutive publication dates and proof of publication shall be filed in the case record.

C. The last date for creditors to file claims against the estate shall be 45 days from receipt of notice or from the second date of publication, and are thereafter barred from any claim.

D. Claims shall have the following order of priority:

- 1.** Court costs for actual notice and publication for creditor's claims, and actual notice and publication for determining heirs;
- 2.** Debts owing for expenses of decedent's last illness and subsequent funeral charges not covered by LTBB;
- 3.** Claims of indebtedness to the Little Traverse Bay Bands of Odawa Indians;

4. Debts owing to members of the Little Traverse Bay Bands of Odawa Indians;
5. Claims of all other creditors.

(Source: WOS 2023-015, October 10, 2023, Section X)

13.311 PAYMENT OF CREDITOR' CLAIMS

All tangible personal property of the decedent that is of a unique keepsake nature, such as art, family heirlooms and photographs, is exempt from sale to pay for claims of creditors. The Court shall not order sale of such tangible personal property of the decedent to satisfy any liens or judgments of creditors.

(Source: WOS 2023-015, October 10, 2023, Section XI)

13.312 FORM OF PROBATE PLEADINGS

The Tribal Court shall determine what documents must be filed in a probate case.

(Source: WOS 2023-015, October 10, 2023, Section XII)

13.313 SEVERABILITY

In the event that any phrase, provision, part, paragraph, subsection or section of this statute is found by a court of competent jurisdiction to violate the Constitution, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this statute, the entirety of the balance of the statute to remain in full and binding force and effect.

(Source: WOS 2023-015, October 10, 2023, Section XIII)

13.314 EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2023-015, October 10, 2023, Section XIV)

Chapter 4. Probate Code for Small Estates

13.401 PURPOSE

The purpose of this statute is to provide for the distribution of small estates of citizens of the Little Traverse Bay Bands of Odawa Indians regardless of domicile at the time of death, as well as any person domiciled within the territorial jurisdiction of the Little Traverse Bay Bands of Odawa Indians at the time of death. This statute repeals and replaces Waganakising Odawak Statute 2011-003.

(Source: WOS 2023-016, October 10, 2023, Section I)

13.402 JURISDICTION

Upon the death of a Tribal citizen, or of any person domiciled within LTBB's territorial jurisdiction, the Tribal Court has jurisdiction to determine the heirs of the decedent, the claims of creditors, and the distribution of property under this statute. The Court's jurisdiction in probate matters shall cover all of the decedent's real property located within the Tribe's territorial jurisdiction, all of the decedent's personal property regardless of location, and any debts owed to the decedent.

(Source: WOS 2023-016, October 10, 2023, Section II)

13.403 COVERAGE OF THIS STATUTE

A. The provisions of this statute shall be used to distribute the assets of a decedent owning assets valued at \$27,000.00 or less. If a decedent owns more than \$27,000.00 in assets, the Court shall not have jurisdiction to probate the estate under this statute.

B. The coverage limit in the preceding subsection shall apply to decedents who die before January 1, 2024. For decedents who die after December 31, 2023, the specific dollar amount in the preceding subsection shall be adjusted to the specific dollar amount specified in the Michigan Department of Treasury's annual cost-of-living adjustment for RCW 700.3982.

C. In accordance with the preceding subsections, the Court administrator shall prominently post the current coverage limit for small estates.

(Source: WOS 2023-016, October 10, 2023, Section III)

13.404 DEFINITIONS

For purposes of this statute, the terms below are defined as follows:

A. “Beneficiary” means a person who is designated to receive something from a legal arrangement or instrument, for example, property designated pursuant to a decedent’s valid will, income from a trust, or the proceeds from an insurance policy.

B. “Coverage Limit” means the maximum value of an estate for the Court to exercise jurisdiction under Section III of this statute.

C. “Decedent” means a deceased person with interests to be determined as demonstrated within this statute.

D. “Domicile” means the permanent home where a person physically resides or intends to return.

E. “Heir” means a person who is entitled under this statute, based upon a family relationship to the decedent, to receive the property of a decedent who dies without a will.

F. “Holographic will” means a will that is written entirely by the decedent that is not witnessed or otherwise does not fully comply with the requirements for a will under this statute.

G. “Immediate Family” means family members generally comprised of the surviving spouse, parents, grandparents, son(s), daughter(s), brother(s) and sister(s) of the decedent.

H. “Intestate” means dying without leaving a will or leaving an invalid will so that the property of the estate passes by the laws of succession rather than by the direction of the

deceased.

I. “Legally Incompetent” means a person determined by a court to be mentally or physically unable or unfit to comprehend the nature and consequences of legal proceedings.

J. “Minor” means person who has not reached age 18.

K. “Marriage” means the legal and voluntary union of two persons to the exclusion of all others.

L. “Probate” means the legal process by which applicable Tribal common and written law, state law, or federal law that affects the distribution of the decedent’s estate is applied to determine the decedent’s heirs, approve wills and beneficiaries, and transfer any personal or real property held in trust by a trustee for a decedent to the heirs, beneficiaries, or other persons or entities entitled by law.

M. “Real Property” means property including all improvements and fixtures upon land; that which is incidental and appurtenant to land; all rights, interests, privileges, easements, and encumbrances relating to land, including tenancies and liens of judgment, mortgage, or otherwise; and any portion of these, except that such term shall never include subsurface rights or the title or ownership interest in tribal, trust, or otherwise restricted land.

N. “Testator” means a person who has written a will.

O. “Tribal Court” means the Little Traverse Bay Bands of Odawa Indians Tribal Court.

P. “Tribe” or “LTBB” means the Little Traverse Bay Bands of Odawa Indians.

Q. “Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians” means all land that is held in trust by the United States government for the benefit of the Tribe.

R. “Will” means the legal instrument that permits a person, the testator, to make decisions on how his or her estate will be managed after death.

(Source: WOS 2023-016, October 10, 2023, Section IV)

13.405 LIMITED JURISDICTION OVER TRANSFERS INVOLVING REAL PROPERTY

A. With respect to lands within the Tribe’s territorial jurisdiction, the Court shall effectuate transfers of land assignments or permanent structures affixed to the land, in accordance with codified Tribal Property and Housing law.

B. Once the transfer is complete, the Court shall forward a copy of the “transfer” to the Executive Branch for record-keeping purposes. The Court may only effectuate transfer title of real property if the decedent owned the property in fee, with no tribal or federal ownership interests or restrictions.

(Source: WOS 2023-016, October 10, 2023, Section V)

13.406 PETITION FOR SMALL ESTATE

A. Filing. The surviving spouse, or if none, any family member of the decedent, the personal representative as designated in decedent will, or a creditor of the decedent may file a petition for small estate. In the case of an unmarried minor, a legal guardian, or person appointed by the Court if a ward of the Court, may file the petition.

B. Time for Filing. The petition should normally be filed within 60 days of the death of decedent.

C. Form of Filing. The petition shall contain the following information:

- 1.** The date and location of death of decedent and age of decedent at time of death;
- 2.** A statement of the decedent’s tribal affiliation, if any;
- 3.** The name of the person filing the petition, tribal enrollment number, if any, age, residence, and relationship to the decedent;

4. A statement that the decedent left no will, or that the will is filed with the petition and offered for probate;
5. The names, ages, and relationship to the decedent of all known heirs of decedent, and if decedent dies with a will, the names, ages, and relationship, if any, of all beneficiaries under the will;
6. An inventory list that includes a detailed statement of assets and approximate value of each;
7. A list of names and addresses of the decedent's creditors, including all possible creditors that the petitioner can reasonably determine by reviewing the decedent's financial records and papers; and
8. A general list of items that were buried/burned with decedent not to be distributed.
9. A request to designate a person as the personal representative if one is not identified in the will or the person identify in the will is unable or unwilling to serve as the personal representative.

D. Minor or Legally Incompetent Heirs. Upon the filing of the petition for administration, the Court shall ascertain whether or not there are any heirs, legatees, or devisees under the age of 18 years or legally incompetent heirs. If so, the Court shall appoint a guardian ad litem to represent the minor or legally incompetent heir's interests until the determination of distribution of belongings is final. The Court will give careful attention to all actions concerning a minor or a legally incompetent heir.

(Source: WOS 2023-016, October 10, 2023, Section VI)

13.407 APPOINTMENT OF PERSONAL REPRESENTATIVE

The Court shall appoint a person as the Personal Representative.

(Source: WOS 2023-016, October 10, 2023, Section VII)

13.408 VALUE OF PROPERTY

The Personal Representative shall file with the Court a final inventory list of the entire estate. If it appears from the inventory and appraisal that the value of the entire estate, less liens and encumbrances, does not exceed homestead allowance, family allowance, exempt property, administration costs and expenses, reasonable funeral expenses, and reasonable medical and hospital expenses of the decedent's last illness, the personal representative, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled to the estate and may file a closing statement as provided in Section XII.

(Source: WOS 2023-016, October 10, 2023, Section VIII)

13.409 HOMESTEAD ALLOWANCE

- A.** A decedent's surviving spouse is entitled to a homestead allowance equal to the coverage limit of this statute.
- B.** If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance equal to the coverage limit of this statute divided by the number of the decedent's minor and dependent children.
- C.** The homestead allowance is exempt from and has priority over all claims against the estate, except administration costs and expenses and reasonable funeral and burial expenses.
- D.** A homestead allowance is in addition to any share passing to the surviving spouse or minor or dependent child by the will of the decedent, unless otherwise provided, by intestate succession, or by elective share.

(Source: WOS 2023-016, October 10, 2023, Section IX)

13.410 ASSET DISTRIBUTION

A. Upon a showing of evidence, satisfactory to the court, of payment of the expenses for the decedent's funeral and burial and if the balance of a decedent's gross estate consists of property equal to or less than the coverage limit of this statute, the court may order that the Personal Representative distribute the property to the decedent's heirs in accordance with the Will or by intestate succession.

B. Upon a showing of evidence, satisfactory to the court, that the decedent's funeral or burial expenses are unpaid or were paid by a person other than the estate, and if the balance of the gross estate after payment of the expenses would consist of property equal to or less than the coverage limit of this statute, the court shall order that the property be first used to pay the unpaid funeral and burial expenses, or to reimburse the person that paid those expenses, and may order that the balance be turned over to the Personal Representative to distribute to the decedent's heirs in accordance with the Will or by intestate succession.

C. Other than a surviving spouse who qualifies for allowances under this statute or the decedent's minor children, an heir who receives property through an order under this section is responsible, for 63 days after the date of the order, for any unsatisfied debt of the decedent up to the value of the property received through the order. The court shall state this condition in the order.

D. If it appears from the inventory and appraisal of the entire estate, less liens and encumbrances, that the value does not exceed administration costs and expenses, reasonable funeral and burial expenses, homestead allowance, family allowance, exempt property, and reasonable medical and hospital expenses of the decedent's last illness, the personal representative, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled to the estate and may file a closing statement as provided in this statute.

(Source: WOS 2023-016, October 10, 2023, Section X)

13.411 PRIORITY OF CLAIMS

A. If the applicable estate property is insufficient to pay all claims and allowances in full, the personal representative shall make payment in the following order of priority:

1. Costs and expenses of administration.
2. Reasonable funeral and burial expenses.
3. Homestead allowance.
4. Family allowance.
5. Exempt property.
6. Debts and taxes with priority under federal law, including, but not limited to, medical assistance payments that are subject to adjustment or recovery from an estate under section 1917 of the Social Security Act, 42 U.S.C. § 1396p.
7. Reasonable and necessary medical and hospital expenses of the decedent's last illness, including a compensation of persons attending the decedent.
8. Court costs for actual notice and publication for creditor's claims, and actual notice and publication for determining heirs.
9. Claims of indebtedness to the Little Traverse Bay Bands of Odawa Indians.
10. Debts and taxes to other local or state governmental entities.
11. Debts owing to Citizens of the Little Traverse Bay Bands of Odawa Indians.
12. Claims of all other creditors.

B. A preference shall not be given in the payment of a claim over another claim of the same class, and a claim due and payable is not entitled to a preference, over a claim not due.

C. If there are insufficient assets to pay all claims in full or to satisfy homestead allowance, family allowance, and exempt property, the personal representative shall proceed to collect the

deficiency in a manner reasonable under the circumstances so that each non-probate transfer, including those made under a trust, bears a proportionate share or equitable share of the total burden.

(Source: WOS 2023-016, October 10, 2023, Section XI)

13.412 CLOSING STATEMENT

A. Unless prohibited by court order or the estate value is more than the coverage limit of this statute, after all listed costs and distributions have been made under subsection (1), a personal representative may close a small estate at any time after disbursement and distribution of the estate by issuing a sworn written statement stating all of the following:

- 1.** To the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed administration costs and expenses, reasonable funeral and burial expenses, homestead allowance, family allowance, exempt property, and reasonable, necessary medical and hospital expenses of the decedent's last illness.
- 2.** The personal representative has fully administered the estate by disbursing and distributing it to the persons entitled to the estate.
- 3.** The personal representative has sent a copy of the closing statement to all estate distributees and to all creditors or other claimants of whom the personal representative is aware whose claims are neither paid nor barred, and has furnished a full account in writing of the estate administration to the distributees whose interests are affected.

B. Any objection to the closing statement must be filed with the Court within 28 days of the filing of the closing statement. If there are no objections, then the Personal Representative shall receive a certificate of completion.

C. If an action or proceeding involving the personal representative is not pending in the court within one year after the closing statement is filed under this section, the personal representative's appointment terminates.

(Source: WOS 2023-016, October 10, 2023, Section XII)

13.413 EXEMPTIONS

A. The Tribe recognizes and adopts the following State of Michigan laws that provide for assets owned by the decedent to pass to the decedent's heirs without the necessity of probate:

1. MCL 257.236 provides that the title to motor vehicles of a decedent whose total value does not exceed \$60,000 may be transferred to the heirs by the Michigan Department of State if there are no other assets requiring probate. The Secretary of State must be furnished with proof of death of the registered owner and a certificate setting forth the fact that the applicant is the surviving husband or wife or the applicants are the heirs of the decedent. This is accomplished by filing the papers at the Secretary of State Office.

2. MCL 324.80312 provides for the transfer of water craft without probate proceedings if there are no other assets requiring probate and the value of the water craft is less than \$100,000. This is accomplished by filing the proper papers at the Secretary of State Office.

3. MCL 408.480 provides that wages or fringe benefits in any amount may be delivered to the heirs of the decedent in order of priority as follows: surviving spouse, surviving children, surviving mother or father, and surviving sister or brother.

4. MCL 700.3981 provides that a hospital, convalescent or nursing home, morgue, or law enforcement agency holding cash not exceeding \$500 and wearing apparel of a decedent may deliver the cash and wearing apparel to a person furnishing identification and an affidavit that the person is the spouse, child, or parent of the decedent and that an estate of the decedent is not pending.

B. Monies held by the Tribe either in the form of Per capita payments, payroll wages or fringe, or other Tribal distributions may be delivered to the Decedent's heirs in priority as follows: surviving spouse, surviving children, surviving mother or father, and surviving sister or

brother.

C. Individual to whom delivery is made is answerable for the property to a person with a prior right and accountable to a personal representative of the decedent's estate appointed after the delivery.

(Source: WOS 2023-016, October 10, 2023, Section XIII)

13.414 APPROVAL OF WILLS

A. When any member of the LTBB Community dies, the Tribal Court shall at the request of any interested party determine the validity of the will after giving notice and full opportunity to appear in Court to tell all persons who might be beneficiaries of the decedent.

B. Where the Court finds that the decedent's will is invalid, the Court shall order the administration of decedent's estate as if the decedent had died without a will.

C. Where the Court finds that there is property of the decedent that was left out of a valid will and no other lawful instrument designates a beneficiary, the Court shall order distribution of the undesignated property, by following the procedures under this statute where the decedent dies without a will.

(Source: WOS 2023-016, October 10, 2023, Section XIV)

13.415 LAWS OF SUCCESSION

A. If the Decedent dies intestate, then the Personal Representative shall distribute the decedent's assets remaining after satisfaction of the debts and expenses of the estate by the following law of succession:

1. If a spouse survives decedent, all assets shall be distributed to the surviving spouse;
2. If there is no surviving spouse, all assets shall be distributed equally to decedent's surviving children;

3. If there is no surviving spouse or children, all assets shall be distributed to decedent's surviving parent/s;
4. If there is no surviving spouse, children or parents, all assets shall be distributed equally among decedent's grand-children;
5. If there are no surviving persons listed in 1-4, all assets shall be distributed equally among decedent's surviving sibling/s;
6. If there are no surviving persons listed in 1-5, all assets shall be distributed equally to decedent's surviving first cousin/s;
7. If there are no surviving persons listed in 1-6, any real property within the Tribe's territorial jurisdiction shall escheat to LTBB; any other assets shall be distributed as the Court deems equitable to close friends or caretakers of the decedent.

B. In the case of a decedent without a will, the Court will make such inquiries of the petitioner, family members, the Enrollment Office or other sources as it deems necessary to make sure the list of heirs is submitted with the petition is complete.

C. Beneficiary Criminally Responsible for the Death of the Decedent. Any beneficiary or any heir of the decedent found to be criminally responsible for the death of the decedent shall not be entitled to inherit or receive any interest of the decedent's estate.

(Source: WOS 2023-016, October 10, 2023, Section XV)

13.416 NOTICE TO CREDITORS

A. The Personal Representative shall file with the Court a final inventory list of the entire estate. If it appears from the inventory and appraisal that the value of the entire estate, less liens and encumbrances, exceed homestead allowance, family allowance, exempt property, administration costs and expenses, reasonable funeral expenses, and reasonable, necessary medical and hospital expenses of the decedent's last illness, the personal representative shall give

notice to creditors. For creditors who may be unknown or are not reasonably ascertainable, the Court shall issue a notice to creditors by publication. The notice shall be published on the Tribal website, in a Tribal newspaper and in one other local newspaper of general circulation for two consecutive publication dates and proof of publication shall be filed in the case record.

B. The last date for creditors to file claims against the estate shall be 45 days from receipt of notice or from the second date of publication, and are thereafter barred from any claim.

(Source: WOS 2023-016, October 10, 2023, Section XVI)

13.417 PAYMENT OF CREDITOR'S CLAIMS

All tangible personal property of the decedent that is of a unique keepsake nature, such as art, family heirlooms and photographs, is exempt from sale to pay for claims of creditors. The Court shall not order sale of such tangible personal property of the decedent to satisfy any liens or judgments of creditors.

(Source: WOS 2023-016, October 10, 2023, Section XVII)

13.418 FORM OF PROBATE PLEADINGS

The Tribal Court shall determine what documents must be filed in a small estate case.

(Source: WOS 2023-016, October 10, 2023, Section XVIII)

13.419 SEVERABILITY

In the event that any phrase, provision, part, paragraph, subsection or section of this statute is found by a court of competent jurisdiction to violate the Constitution, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this statute, the entirety of the balance of the statute to remain in full and binding force and effect.

(Source: WOS 2023-016, October 10, 2023, Section XIX)

13.420 EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2023-016, October 10, 2023, Section XX)