

Chapter 18. Tribally Accepted Accounting Practice Statute

Codification Note: Repeals and Replaces 2019-002.

7.1801 PURPOSE

The purpose of this statute is to protect Tribal assets controlled by Tribally chartered corporations, Limited Liability Companies (Member Managed or Manager Managed), enterprises, businesses, companies, which includes any and all sub-entities, that are wholly owned or majority owned by the Tribe, in order to standardize accounting practices and reporting requirements. This Statute does not apply to the Tribal governmental accounting and practices. This Statute repeals and replaces WOS 2019-002.

(Source: WOS 2021-002, April 26, 2021, Section I)

7.1802 DEFINITIONS

- A.** “Balance sheet” means a financial statement that presents an organized list of assets, liabilities and equity at a particular point in time.

- B.** “Board” means the authorized and governing entity, wholly or majority owned by the tribe, including Tribally Chartered Corporations, Limited Liability Companies (Member Managed or Manager Managed), enterprises, businesses, companies, and includes all sub-entities.

- C.** “Capital Expenditure” (CAPEX) means funds used to acquire, upgrade, and maintain physical assets such as property, industrial buildings, or equipment.

- D.** “Generally Accepted Accounting Principles” (GAAP) means a body of standards having both broad and specific guidelines companies follow when measuring and reporting information in their financial statements and related notes and which are established by the Financial Accounting Standards Boards (FASB).

- E.** “Gift” means property, money or assets that a person transfers to another while receiving nothing or less than fair market value in return.

F. “Income Statement” means the financial statement that reports revenues, expenses, gains, and losses for a particular reporting period.

G. “Operating Capital” means the funds required for running the daily operations of the company.

H. “Political Contributions” means any funds, service or other means that benefits any campaigns initiative, referendum, recall, petition or other election related activities.

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

(Source: WOS 2021-002, April 26,2021, Section II)

7.1803 APPLICATION

The following will apply to all Tribally chartered corporations, companies and other Tribal sub-entities:

A. The utilization of General Accepted Accounting principles (GAAP) is required.

B. The designation of the following mandatory accounts, along with their purpose, requirements and restrictions:

1. Tribal distributions.

a. Profits above the maximum amount set for operating capital will be transferred to a Tribal Revenue account monthly.

b. On a quarterly basis, any balance of the Tribal Revenue account shall be transferred to the Tribe, unless otherwise approved by Tribal Council.

2. CAPEX.

a. On a yearly basis, each board shall determine CAPEX use and amounts for each site or operation.

b. Any additional revenues utilized for CAPEX shall require board approval prior to funds being used.

c. Any payments made in conjunction with the project shall require a designated Board member(s) signature or a loan officer's signature.

6. Gifts and bonuses.

a. All bonuses shall be approved by the Board.

b. Any gifts or bonuses in the amount of one thousand dollars (\$ 1 ,000.00) or more shall have Board approval and Tribal Council shall be notified as to the nature and amount of the gift or bonus.

c. Any Political Contributions require TC notification

C. Statements.

1. Monthly, each Board shall submit to Tribal Council an unaudited Income Statement along with a balance statement. This will be a separate document titled "Income Statement". The following shall be included in the document:

a. Financial Notes are to include:

- i. Appropriations
- ii. Loans and interest rates
- iii. Tribal Council requires notifications
- iv. Land holdings and acquisitions
- v. Lease holdings
- vi. Tribal Council requires notifications

2. Annually, each board shall submit to Tribal Council a detailed Profit and Loss Statement along with a balance statement.

a. Financial Notes are to include:

- i. Appropriations
- ii. Loans and interest rates
- iii. Tribal Council requires notifications
- iv. All bonuses
- v. All construction and capital expenditures with source of capital
- vi. Payments to Board members

- vii. Gifts
- viii. Bonuses

3. Each Board shall prepare an annual report that includes a summary overview and financial statements that will be presented to the Tribal Membership at the Tribe's Annual Meeting.

4. All Financial obligations and interest rates of a Board shall be reported to Tribal Council annually at the beginning of each Fiscal Year. Financial obligations include the following:

- a.** Any guarantee of debt or pledge, such as loans, lines of credit or other credit arrangements with private lenders or commercial banks;
- b.** Derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation;
- c.** Letters of credit issued in connection with variable rate debt issuance;
- d.** Interest rate swaps entered into in connection with debt issuance.

D. The following applies to all Boards:

1. The Legislative Office of Finance and Revenue shall have access to all financial books and accounts of all Boards with “read only permission” access.

2. Any Loan applications made by Boards for seven-hundred and fifty thousand dollars (\$750,000.00) or more shall require Tribal Council approval, unless otherwise indicated by separate resolution, statute or charter. Any Loan applications where the interest rate is eight percent (8%) or more shall require Tribal Council approval unless otherwise indicated by separate resolution, statute or charter.

3. Grant applications. Unless otherwise indicated by statute, any grant application made by Boards shall require notice to Tribal Council. Grant applications for one-hundred thousand (\$100,000.00) or more, shall require Tribal Council approval.

4. All Financial obligations and interest rates of a Board shall be reported to Tribal Council annually at the beginning of each Fiscal Year. Financial obligations include the following:
 - a. Any guarantee of debt or pledge, such as loans, lines of credit or other credit arrangements with private lenders or commercial banks;
 - b. Derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation;
 - c. Letters of credit issued in connection with variable rate debt issuance;
 - d. Interest rate swaps entered into in connection with debt issuance.

- E. Gaming related Boards have the following requirements:
 1. Establish separate CAPEX accounts for each site.
 2. Establish separate financial statements and books for each site.
 3. No form of free play may ever be used as revenue or win/unit/day accounting.
 4. Monthly report shall include, but not limited to:
 - a. Slot revenue at each
 - b. Number of slots at each site
 - c. Win/unit/day at each site
 5. Transfers from one set of books to another require Board approval and cannot be reversed without notification to Tribal Council.

(Source: WOS 2021-002, April 26, 2021, Section III)

7.1804 SEVERABILITY

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Source: WOS 2021-002, April 26, 2021, Section IV)

7.1805 EFFECTIVE DATE

Effective upon signature of the Executive or thirty (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 2021-002, April 26, 2021, Section V)