

## **TITLE 9 PROPERTY**

### **CHAPTER 9-1 MORTGAGES, DEEDS OF TRUST AND REAL ESTATE CONTRACTS**

#### **9-1-1 Purpose**

It is the legislative intent and purpose of the Colville Tribal Business Council in enacting this Chapter:

(a) To exercise its inherent sovereignty over Indian trust lands wherever situated and over all lands in which the Tribes holds a security interest of any sort.

(b) To provide a just and proper forum for the foreclosure of real estate mortgages and deeds of trust and forfeiture of real estate contracts in which the Tribes may have an interest or in which the members of the Colville Confederated Tribes may have an interest wherever situated.

(c) To provide those holding unapproved and approved contracts, mortgages and deeds of trust on the trust lands or other lands of individual Indian owners a remedy in the event the debtors default under the terms of the contract, mortgage or deed of trust.

(d) 25 U.S.C. 483a provides that foreclosure of mortgages and deeds of trust on trust lands of individual Indian owners shall be in conformity with the laws of the tribe which has jurisdiction over such land, or in the case where no tribal foreclosure law exists, in conformity with the statutory law of the state in which the lands are located. As a result, the procedures set out in this Chapter utilize state law to the extent applicable.

(Amended 10/7/93, Resolution 1993-530)

(Certified 10/12/93)

(Amended 8/2/12, Certified 8/8/12, Resolution 2012-487)

### **FORECLOSURE OF REAL ESTATE MORTGAGES AND DEEDS OF TRUST ON PROPERTY NOT IN TRUST OR RESTRICTED STATUS**

#### **9-1-30 State Law Adopted as Tribal Law**

The foreclosure of mortgages and deeds of trusts securing real property interests and the execution on judgments secured by a mortgage on real property shall be conducted under the procedures set out in Titles 6.17, 6.21, 6.23 and 6.12 of the Revised Code of Washington (RCW) as those sections exist on March 1, 1993, or as they may be thereafter be amended; provided sections 6.17.080, 6.12.061 and 6.12.162 shall not apply and shall not be adopted into this Chapter. The procedures to obtain a lis pendens as set out in RCW 4.28.320 shall also be available. Those provisions of the Revised Code of Washington identified in this chapter shall be incorporated into and shall become a part of this Subchapter.

(Amended 10/7/93, Resolution 1993-530)

(Certified 10/12/93)

(Amended 8/2/12, Certified 8/8/12, Resolution 2012-487)

#### **9-1-31 Exceptions in Adoption of State Law**

In those sections of the RCW incorporated pursuant to section 9-1-30 all references: to the “superior court”, “court”, or “district court” shall mean the Colville Tribal Court; to the “sheriff” shall mean the Chief of Police of the Colville Tribes; and to the “State of Washington” shall mean the Confederated Tribes of the Colville Reservation.

(Amended 10/7/93, Resolution 1993-530)

(Certified 10/12/93)

#### **9-1-32 (Deleted 10/7/93, Resolution 1993-530, Certified 10/12/93).**

### **FORECLOSURE OF MORTGAGES AND DEEDS OF TRUST ON PROPERTY IN TRUST OR RESTRICTED STATUS**

#### **9-1-60 State Law Adopted as Tribal Law**

25 U.S.C § 483a provides that the foreclosure of mortgages and deeds of trust on the trust lands of the individual Indian owners shall be in conformity with the laws of the tribe which has jurisdiction over such

land, or in the case where no tribal foreclosure law exists, in conformity with the statutory law of the state in which the land is located. The foreclosure of mortgages granted by Indian owners on lands held in trust or restricted status and the execution on judgments secured by a mortgage on lands held in trust or restricted status shall be conducted by the Colville Tribal Court under the procedures set out in Titles 6.17, 6.21, 6.23, and 61.12 of the Revised Code of Washington (RCW) as those sections exist on March 1, 1993, or as they may be thereafter be amended; provided sections 6.17.080, 61.12.061, and 61.12.162 shall not apply and shall not be adopted into this Chapter. The procedures to obtain a lis pendens as set out in RCW 4.28.320 shall also be available. Those provisions of the Revised Code of Washington identified in this chapter shall be incorporated into and shall become a part of this Subchapter. The Tribal Court shall not be required to follow state case law in interpreting the statutes, but may use Washington case law as a guide.

(Amended 8/2/12, Certified 8/8/12, Resolution 2012-487)

**9-1-61 Exceptions in Adoption of State Law**

In those sections of the RCW incorporated pursuant to section 9-1-60 all references to the “superior court of the county” or “the court” shall mean the Colville Tribal Court. All references to the “sheriff” shall mean the chief of police of the Colville Tribes. All references to the “office of the auditor of each county” shall mean the Bureau of Indian Affairs if the property is in trust or restricted status. Further, any and all recording of any lis pendens, mortgage, deed of trust, or any other instrument which may affect the title to real property in trust or restricted status shall occur solely in the Bureau of Indian Affairs’ Title Plant.

(Amended 8/2/12, Certified 8/8/12, Resolution 2012-487)

**FORFEITURE OF REAL ESTATE CONTRACTS ON PROPERTY NOT IN TRUST OR RESTRICTED STATUS**

**9-9-90 State Law Adopted as Tribal Law**

Title 61.30 of the Revised Code of Washington sets forth certain procedures to be used in forfeiting a real estate contract and is adopted in its entirety and shall be used by the Tribal Court of the Colville Tribes of Indians in forfeiting real estate contracts on lands not held in trust or restricted status. The Tribal Court shall not be required to follow Washington case law in interpreting these statutes, but may use state case law as a guide.

(Amended 8/2/12, Certified 8/8/12, Resolution 2012-487)

**9-1-92 Exceptions in Adoption of State Law**

In those sections of the RCW incorporated pursuant to section 9-1-90, all references to the “superior court” or “the court” or “court action” shall mean the Colville Tribal Court, and to the “sheriff” shall mean the Chief of Police of the Colville Tribes.

(Amended 8/2/12, Certified 8/8/12, Resolution 2012-487)

**FORFEITURE OF REAL ESTATE CONTRACTS ON PROPERTY IN TRUST OR RESTRICTED STATUS**

**9-1-100 State Law Adopted as Tribal Law**

25 U.S.C § 483 authorizes the Secretary of the Interior to approve conveyances with respect to lands or interests in lands held by individual Indians. The Secretary has adopted regulations which authorize real estate contracts as one possible means of such conveyance. See 25 C.F.R § 152.35. Title 61.30 of the Revised Code of Washington sets forth certain procedures to be used in forfeiting a real estate contract and is adopted in its entirety and shall be used by the Tribal Court of the Colville Tribes of Indians in forfeiting real estate contracts on lands held in trust or restricted status. The Tribal Court shall not be required to follow Washington case law in interpreting these statutes, but may use state case law as a guide.

(Amended 8/2/12, Certified 8/8/12, Resolution 2012-487)

**9-1-101 Exceptions in Adoption of State Law**

In those sections of the RCW incorporated pursuant to section 9-1-100 all references to the “superior court” or “the court” or “court action” shall mean the Colville Tribal Court and to the “sheriff” shall mean the Chief of Police of the Colville Tribes. All references to “recorded in each county in which any of the property is located” shall mean the Bureau of Indian Affairs if the property is in trust or restricted status.

Further, any and all recording of any real estate contract or any other instrument (including but not limited to those mentioned in RCW 61.30) which may affect the title to property in trust or restricted status shall occur solely in the Bureau of Indian Affairs' Title Plant.

(Amended 8/2/12, Certified 8/8/12, Resolution 2012-487)

## **SEVERABILITY**

### **9-1-120**

#### **Severability**

If any provision of this chapter or its application to any person or circumstance is held to be invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

(Chapter 9-1 Adopted 8/6/87, Resolution 1987-443)  
(Certified 8/18/87)